

THE ONE HUNDRED AND NINTH DAY

CARSON CITY (Thursday), May 26, 2011

Senate called to order at 1:40 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Norm Milz.

Almighty God, today we come into this Chamber to do the work that is set before us. The decisions we make today and the actions we take will affect all of the citizens of this State. May our decisions and votes be made for the good of our constituents and not any special interests. As we look at bills for the elderly, education and the economy of the State, guide us to seek Your direction and will.

As we are on the West Coast of this country, it is so easy for us to not pay close attention to the citizens in the rest of the United States who are far away but in need of our support and prayer. Many of us know people in the affected areas of the floods and tornados that have struck the center of this Nation and continue to do so. May we continue to lift them up to Your grace and mercy, and may we support and care for them in whatever way we can.

All these things we bring to You trusting in Your love, Your presence and Your grace, in the Name of Your Son, Jesus Christ.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which was referred Assembly Bill No. 521, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce, Labor and Energy, to which was referred Assembly Bill No. 199, 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 Finance, to which was re-referred Assembly Bill No. 500, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was re-referred Senate Bill No. 208, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

STEVEN A. HORSFORD, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 98, 519, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Government Affairs, to which were referred Assembly Bills Nos. 240, 419, 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 Judiciary, to which was referred Assembly Bill No. 223, 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*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 25, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 470, 474, 478, 479, 482; Assembly Bill No. 390.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 48, 202, 224, 255, 259, 330, 359.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolutions Nos. 1, 2.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 586 to Assembly Bill No. 29; Senate Amendment No. 558 to Assembly Bill No. 109; Senate Amendment No. 620 to Assembly Bill No. 138; Senate Amendment No. 587 to Assembly Bill No. 154; Senate Amendment No. 584 to Assembly Bill No. 170; Senate Amendment No. 624 to Assembly Bill No. 227; Senate Amendment No. 577 to Assembly Bill No. 249; Senate Amendment No. 596 to Assembly Bill No. 253; Senate Amendment No. 595 to Assembly Bill No. 254; Senate Amendment No. 601 to Assembly Bill No. 290; Senate Amendment No. 572 to Assembly Bill No. 313; Senate Amendment No. 622 to Assembly Bill No. 455; Senate Amendment No. 588 to Assembly Bill No. 533; Senate Amendment No. 589 to Assembly Bill No. 535.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 598 to Assembly Bill No. 39; Senate Amendment No. 599 to Assembly Bill No. 40; Senate Amendment No. 610 to Assembly Bill No. 362.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 48.

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

Motion carried.

Assembly Bill No. 202.

Senator Wiener moved that the bill be referred to the Select Committee on Economic Growth and Development.

Motion carried.

Assembly Bill No. 224.

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

Motion carried.

Assembly Bill No. 255.

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

Motion carried.

Assembly Bill No. 259.

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

Motion carried.

Assembly Bill No. 330.

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

Motion carried.

Assembly Bill No. 359.

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

Motion carried.

Assembly Bill No. 390.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bills Nos. 198, 260, 299, 398, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Lee moved that Assembly Bill No. 265 taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

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

Senate in recess at 1:57 p.m.

SENATE IN SESSION

At 2:07 p.m.

President Krolicki presiding.

Quorum present.

SECOND READING AND AMENDMENT

Senate Bill No. 439.

Bill read second time and ordered to third reading.

Senate Bill No. 452.

Bill read second time and ordered to third reading.

Senate Bill No. 499.

Bill read second time and ordered to third reading.

Senate Joint Resolution No. 15.

Resolution read second time and ordered to third reading.

Assembly Bill No. 122.

Bill read second time.

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

Amendment No. 707.

"SUMMARY—~~Authorizes~~ Revises provisions concerning the imposition of certain reasonable restrictions or requirements relating to systems for obtaining wind ~~and solar~~ energy. (BDR 22-592)"

"AN ACT relating to energy; ~~authorizing~~ revising provisions concerning the imposition of certain reasonable restrictions or requirements relating to systems for obtaining wind ~~and solar~~ energy; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the governing body of a city or county: (1) may enact zoning regulations and restrictions to promote the health, safety, morals or general welfare of the community; (2) is prohibited from adopting an ordinance or taking any other action which unreasonably prohibits or restricts an owner of real property from using a system for obtaining ~~solar or~~ wind energy on his or her property; and (3) may impose a reasonable restriction on the use of a system for obtaining wind energy which is related to the height, noise or safety of the system. ~~and (4) is required to authorize the use of a system which uses solar or wind energy to reduce energy costs for a structure if the system and structure comply with all applicable building codes and zoning ordinances.~~ (NRS 278.020, 278.02077) ~~, 278.0208, 278.580~~ The governing body of a city or county unreasonably prohibits or restricts the use of a system for obtaining solar or wind energy if the governing body imposes restrictions that significantly decrease the efficiency or performance of the solar or wind energy system unless the restriction provides for the use of a comparable alternative system. (NRS 278.02077, 278.0208) Section 1 of ~~this~~ This bill provides that, in addition to reasonable restrictions relating to height, noise or safety, reasonable restrictions on the use of a system for obtaining wind energy may include restrictions relating to setback, location and finish. ~~Section 2 of this bill authorizes a governing body to require that a special use permit or conditional permit be obtained for a system for obtaining solar energy proposed to be installed or constructed within the boundaries of an incorporated city or town on nonresidential property that is adjacent to residential property.~~ This bill also deletes provisions which

provide that the governing body of a city or county unreasonably prohibits or restricts the use of a system for obtaining wind energy if the governing body imposes restrictions that significantly decrease the efficiency or performance of the wind energy system unless the restriction provides for the use of a comparable alternative system.

WHEREAS, Nevada has significant amounts of ~~solar and~~ wind resources available for use in the production of clean, renewable sources of energy; and

WHEREAS, It has been a stated goal of the Nevada Legislature to encourage the availability of these ~~solar and~~ wind resources for use by the residents of this State; and

WHEREAS, Local governments have traditionally been authorized to enact zoning and land use regulations and restrictions to promote the health, safety, morals and general welfare of their communities; and

WHEREAS, It is the intent of the Nevada Legislature to encourage local governments to balance the use of clean, renewable sources of energy with the promotion of the health, safety, morals and general welfare of their communities; now, therefore

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

Section 1. NRS 278.02077 is hereby amended to read as follows:
278.02077 1. Except as otherwise provided in subsection 2:

(a) A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts the owner of real property from using a system for obtaining wind energy on his or her property.

(b) Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer or sale of, or any other interest in, real property and which prohibits or unreasonably restricts the owner of the property from using a system for obtaining wind energy on his or her property is void and unenforceable.

2. The provisions of subsection 1 do not prohibit a reasonable restriction or requirement:

(a) Imposed pursuant to a determination by the Federal Aviation Administration that the installation of the system for obtaining wind energy would create a hazard to air navigation; or

(b) Relating to the *finish*, height, *location*, noise, ~~or~~ safety *or setback* of a system for obtaining wind energy.

~~3. For the purposes of this section, "unreasonably restricts the owner of the property from using a system for obtaining wind energy" includes the placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.~~

Sec. 2. ~~NRS 278.0208 is hereby amended to read as follows:~~

~~278.0208 1. Except as otherwise provided in subsection 2:~~

~~(a) A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts or has the effect of prohibiting or unreasonably restricting the owner of real property from using a system for obtaining solar energy on his or her property.~~

~~[2.] (b) Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer or sale of, or any other interest in, real property and which prohibits or unreasonably restricts or has the effect of prohibiting or unreasonably restricting the owner of the property from using a system for obtaining solar energy on his or her property is void and unenforceable.~~

~~2. A governing body may require that a special use permit or conditional permit be obtained in the manner provided in NRS 278.315 for the construction or installation of a system for obtaining solar energy within the boundaries of an incorporated city or town on nonresidential property that is adjacent to residential property. As used in this subsection, "nonresidential property" means all real property other than residential property and includes, without limitation, real property owned by a governmental entity.~~

~~3. For the purposes of this section, the following shall be deemed to be unreasonable restrictions:~~

~~(a) The placing of a restriction or requirement on the use of a system for obtaining solar energy which decreases the efficiency or performance of the system by more than 10 percent of the amount that was originally specified for the system, as determined by the Director of the Office of Energy, and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.~~

~~(b) The prohibition of a system for obtaining solar energy that uses components painted with black solar glazing.] (Deleted by amendment.)~~

Sec. 3. This act becomes effective upon passage and approval.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 707 to Assembly Bill No. 122 deletes provisions prohibiting the governing body of a city or county from imposing certain restrictions on wind energy systems.

Amendment adopted.

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

Assembly Bill No. 132.

Bill read second time.

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

Amendment No. 687.

"SUMMARY—Revises provisions governing the dates for certain elections. (BDR 24-684)"

"AN ACT relating to elections; revising provisions governing the dates for certain city elections; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Certain cities that are created by charters hold ~~general~~ municipal elections in ~~June of~~ odd-numbered years (Boulder City, Caliente, Elko, Henderson, Las Vegas, North Las Vegas and Yerington). **Sections 20-47** of this bill amend the charters of ~~those cities~~ **Boulder City, Caliente, Henderson, Las Vegas, North Las Vegas and Yerington** to authorize the city councils of those cities to choose by ordinance ~~whether~~ to ~~1.~~ hold city elections on the state election cycle ~~1;~~ or ~~2.~~ continue holding the elections in June, as provided in their respective city charters ~~1~~, **which is in even-numbered years. If the city council of Boulder City, Henderson, Las Vegas or North Las Vegas adopts such an ordinance, sections 21, 33, 39 and 40.5 of this bill provide that the ordinance must not affect the term of office of any elected official of the city serving in office on the effective date of the ordinance but may affect the next succeeding term for that office. If such an ordinance is adopted and subsequently repealed, the city would return to holding its elections in odd-numbered years, as provided in its existing city charter.**

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. Section 4 of the charter of Boulder City is hereby amended to read as follows:

Section 4. Number; selection and term; recall.

1. ~~The~~ *Except as otherwise provided in section 96, the* City Council shall have four Council Members and a Mayor elected from the City at large in the manner provided in Article IX, for terms of four years and until their successors have been elected and have taken office as provided in section 16 . ~~;~~ ~~subject to recall as provided in section 111.5.~~ No Council Member shall represent any particular constituency or district of the City, and each Council Member shall represent the entire City. (Amd. 2; 6-4-1991; Add. 17; Amd. 1; 11-5-1996)

2. (Repealed by Amd. 1; 6-4-1991)

3. *The Council Members and the Mayor are subject to recall as provided in section 111.5.*

Sec. 21. Section 96 of the charter of Boulder City is hereby amended to read as follows:

Section 96. Conduct of ~~city~~ *municipal* elections.

1. All ~~city~~ *municipal* 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 City Council which are consistent with law and this Charter. (1959 Charter)

2. All full terms of office in the City Council are ~~four~~ 4 years, and Council Members must be elected at large without regard to precinct residency. ~~Two~~ *Except as otherwise provided in subsection 8, 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. (Add. 17; Amd. 1; 11-5-1996)

~~(a)~~ 3. In the event one or more ~~two~~ 2-year term positions on the Council will be available at the time of a municipal election as provided in section 12, candidates must file specifically for such position(s). Candidates receiving the greatest respective number of votes must be declared elected to the respective available ~~two~~ 2-year positions. (Add. 15; Amd. 2; 6-4-1991)

~~3. A city~~

4. *Except as otherwise provided in subsection 8, a* primary *municipal* election must be held on the first Tuesday after the first Monday in April of each odd-numbered year and a ~~city~~ general *municipal* election must be held on the first Tuesday after the first Monday in June of each odd-numbered year.

~~(a)~~ 5. A primary *municipal* election must not be held if no more than double the number of Council Members to be elected file as

candidates. A primary *municipal* election must not be held for the office of Mayor if no more than two candidates file for that position. The primary *municipal* election must be held for the purpose of eliminating candidates in excess of a figure double the number of Council Members to be elected. (Add. 17; Amd. 1; 11-5-1996)

~~{(b)}~~ 6. If, in the primary ~~{city}~~ *municipal* 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}~~ *municipal* election. (Add. 10; Amd. 7; 6-2-1981)

~~{(e)}~~ 7. In each primary and general *municipal* election, voters ~~{shall be}~~ *are* entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the ~~{city}~~ *municipal* elections. (Add. 11; Amd. 5; 6-7-1983)

~~{4}~~ 8. *The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.*

9. *If the City Council adopts an ordinance pursuant to subsection 8, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.*

10. *If the City Council adopts an ordinance pursuant to subsection 8, the ordinance must not affect the term of office of any elected official of the City serving in office on the effective date of the ordinance. The next succeeding term for that office may be shortened but may not be lengthened as a result of the ordinance.*

11. The conduct of all municipal elections ~~{shall}~~ *must* be under the control of the City 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 City 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. (Add. 24; Amd. 1; 6-3-2003)

Sec. 22. Section 111.5 of the charter of Boulder City is hereby amended to read as follows:

Section 111.5. Recall of *the Mayor and* Council Members.

As provided by the general laws of this State, *the Mayor and* every member of the City Council ~~{is}~~ *are* subject to recall from office. (Add. 5; Amd. 5; 6-8-1971; Add. 24; Amd. 1; 6-3-2003)

Sec. 23. (Deleted by amendment.)

Sec. 24. Section 2.010 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, as last amended by chapter 98, Statutes of Nevada 1977, at page 202, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of five Council Members, including the Mayor.

2. The Mayor and each Council Member ~~shall~~ **must** be:

(a) Bona fide residents of the City for at least 2 years immediately prior to their election.

(b) Qualified electors within the City.

3. All Council Members, including the Mayor, ~~shall~~ **must** be voted upon by the registered voters of the City at large and shall serve for terms of 4 years except as *otherwise* provided in ~~subsection 3 of~~ section 5.010.

4. The Mayor and Council Members shall receive a salary in an amount fixed by the City Council. Such salary ~~shall~~ **must** not be increased or diminished during the term of the recipient.

Sec. 25. Section 5.010 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, as amended by chapter 71, Statutes of Nevada 1975, at page 82, is hereby amended to read as follows:

Sec. 5.010 Municipal elections.

1. ***Except as otherwise provided in subsection 2:***

(a) On the ~~1st~~ **first** Tuesday after the ~~1st~~ **first** Monday in June 1973, there ~~shall~~ **must** be elected by the qualified voters of the City, at a general ***municipal*** election to be held for that purpose, a Mayor and one Council Member who shall hold office for a period of 4 years and until their successors have been elected and qualified.

~~2.~~ (b) On the ~~1st~~ **first** Tuesday after the ~~1st~~ **first** Monday in June 1975, and at each successive interval of 4 years thereafter, there ~~shall~~ **must** be elected by the qualified voters of the City, at a general ***municipal*** election to be held for that purpose, two Council Members ~~1~~ who shall hold office for a period of 4 years and until their successors have been elected and qualified.

~~3.~~ (c) On the ~~1st~~ **first** Tuesday after the ~~1st~~ **first** Monday in June 1975, there shall be elected by the qualified voters of the City at a general ***municipal*** election to be held for that purpose one Council Member who shall hold office for a period of 2 years and until his or her successor has been elected and qualified.

~~4.~~ (d) On the ~~1st~~ **first** Tuesday after the ~~1st~~ **first** Monday in June 1977, and at each successive interval of 4 years, there ~~shall~~ **must** be elected by the qualified voters of the City, at a general ***municipal*** election to be held for that purpose, a Mayor and two Council Members, who shall hold office for a period of 4 years and until their successors have been elected and qualified.

2. *The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.*

3. *If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.*

4. *If the City Council adopts an ordinance pursuant to subsection 2, the term of office of any elected official may be shortened but may not be lengthened as a result of the ordinance.*

Sec. 26. (Deleted by amendment.)

Sec. 27. ~~[Section 2.010 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, as last amended by chapter 51, Statutes of Nevada 2001, at page 449, is hereby amended to read as follows:~~

~~Sec. 2.010 City Council: Qualifications; election; term of office; salary:~~

~~1. The legislative power of the City is vested in a City Council consisting of four members and the Mayor:~~

~~2. The members of the City Council must be:~~

~~(a) Bona fide residents of the City for at least 2 years before their election:~~

~~(b) Qualified electors within the City:~~

~~3. All members of the City Council must be voted upon by the registered voters of the City at large and, *except as otherwise provided in section 5.010*, shall serve for terms of 4 years:~~

~~4. The members of the City Council must receive a salary in an amount fixed by the City Council.] (Deleted by amendment.)~~

Sec. 28. ~~[Section 5.010 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, as amended by chapter 51, Statutes of Nevada 2001, at page 463, is hereby amended to read as follows:~~

~~Sec. 5.010 Municipal elections:~~

~~1. *Except as otherwise provided in subsection 2:*~~

~~(a) On the first Tuesday after the first Monday in June 1975, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general *municipal* election to be held for that purpose, a Mayor and two members of the City Council, who shall hold office for a period of 4 years and until their successors have been elected and qualified.~~

~~[2.] (b) On the first Tuesday after the first Monday in June 1973, and at each successive interval of 4 years thereafter, there must be elected by the qualified voters of the City, at a general *municipal* election to be held for that purpose, two members of the City Council,~~

~~who shall hold office for a period of 4 years and until their successors have been elected and qualified.~~

~~2. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.~~

~~3. If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.~~

~~4. If the City Council adopts an ordinance pursuant to subsection 2, the term of office of any elected official may be shortened but may not be lengthened as a result of the ordinance.] **(Deleted by amendment.)**~~

Sec. 29. (Deleted by amendment.)

Sec. 30. Section 2.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 596, Statutes of Nevada 1995, at page 2206, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Council Members and the Mayor.

2. The Mayor must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the City.

3. Each Council Member must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the ward which he or she represents.

(c) A resident of the ward which he or she represents for at least 30 days immediately preceding the last day for filing a declaration of candidacy for the office, except that changes in ward boundaries pursuant to the provisions of section 1.040 do not affect the right of any elected Council Member to continue in office for the term for which he or she was elected.

4. All Council Members, including the Mayor, must be voted upon by the registered voters of the City at large and , **except as otherwise provided in section 5.020**, shall serve for terms of 4 years.

5. The Mayor and Council Members are entitled to receive a salary in an amount fixed by the City Council. The City 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.

Sec. 31. Section 4.015 of the Charter of the City of Henderson, being chapter 231, Statutes of Nevada 1991, as last amended by chapter 209, Statutes of Nevada 2001, at page 970, is hereby amended to read as follows:

Sec. 4.015 Municipal Court.

1. There is a Municipal Court of the City which consists of at least one department. Each department must be presided over by a Municipal Judge and has such power and jurisdiction as is prescribed in, and is, in all respects which are not inconsistent with this Charter, governed by, the provisions of chapters 5 and 266 of NRS which relate to municipal courts.

2. The City Council may from time to time establish additional departments of the Municipal Court and shall appoint an additional Municipal Judge for each.

3. At the first ~~municipal~~ primary or general *municipal* election which follows the appointment of an additional Municipal Judge to a newly created department of the Municipal Court, the successor to that Municipal Judge must be elected for a term of not more than 5 years, as determined by the City Council, in order that, as nearly as practicable, one-third of the number of Municipal Judges be elected every 2 years.

4. ~~Each~~ *Except as otherwise provided in subsection 3, each* Municipal Judge must be voted upon by the registered voters of the City at large ~~+~~ *and, except as otherwise provided in section 5.020, shall serve for a term of 6 years.*

5. The respective departments of the Municipal Court must be numbered 1 through the appropriate Arabic number, as additional departments are approved by the City Council. A Municipal Judge must be elected for each department by number.

6. The Senior Municipal Judge is selected by a majority of the sitting judges for a term of 2 years. If no Municipal Judge receives a majority of the votes, the Senior Municipal Judge is the Municipal Judge who has continuously served as a Municipal Judge for the longest period.

Sec. 32. Section 5.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 637, Statutes of Nevada 1999, at page 3565, is hereby amended to read as follows:

Sec. 5.010 Primary *municipal* election.

1. ~~A~~ *Except as otherwise provided in section 5.020, a* primary *municipal* election must be held on the Tuesday after the first Monday in April of each odd-numbered year, at which time there must be nominated candidates for offices to be voted for at the next general municipal election.

2. A candidate for any office to be voted for at any primary municipal election must file a declaration of candidacy as provided by the election laws of this State.

3. All candidates for elective office must be voted upon by the registered voters of the City at large.

4. If in the primary *municipal* election no candidate receives a majority of votes cast in that election for the office for which he or she is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general *municipal* election. If in the primary *municipal* election, regardless of the number of candidates for an office, one candidate receives a majority of votes cast in that election for the office for which he or she is a candidate, he or she must be declared elected and no general *municipal* election need be held for that office.

Sec. 33. Section 5.020 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 209, Statutes of Nevada 2001, at page 971, is hereby amended to read as follows:

Sec. 5.020 General municipal election.

1. ***Except as otherwise provided in subsection 2:***

(a) A general *municipal* election must be held in the City on the first Tuesday after the first Monday in June of each odd-numbered year and on the same day every 2 years thereafter, at which time the registered voters of the City shall elect city officers to fill the available elective positions.

~~2.~~ (b) All candidates for the office of Mayor, Council Member and Municipal Judge must be voted upon by the registered voters of the City at large. The term of office for members of the City Council and the Mayor is 4 years. Except as otherwise provided in subsection 3 of section 4.015, ~~of this Charter,~~ the term of office for a Municipal Judge is 6 years.

~~3.~~ (c) On the Tuesday after the first Monday in June 2001, and every 6 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 1 who will hold office until his or her successor has been elected and qualified.

~~4.~~ (d) On the Tuesday after the first Monday in June 2003 and every 6 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 2 who will hold office until his or her successor has been elected and qualified.

~~5.~~ (e) On the Tuesday after the first Monday in June 2005, and every 6 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 3 who will hold office until his or her successor has been elected and qualified.

2. *The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.*

3. *If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.*

4. *If the City Council adopts an ordinance pursuant to subsection 2, the ordinance must not affect the term of office of any elected official of the City serving in office on the effective date of the ordinance. The next succeeding term for that office may be shortened but may not be lengthened as a result of the ordinance.*

Sec. 34. (Deleted by amendment.)

Sec. 35. Section 1.140 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 6, Statutes of Nevada 2001, at page 10, is hereby amended to read as follows:

Sec. 1.140 Elective offices.

1. The elective officers of the City consist of:

- (a) A Mayor.
- (b) One Council Member from each ward.
- (c) Municipal Judges.

2. ~~The~~ *Except as otherwise provided in section 5.020, the terms of office of the Mayor and Council Members are 4 years.*

3. Except as otherwise provided in subsection 3 of section 4.010 ~~of this Charter~~ *and section 5.020, the term of office of a Municipal Judge is 6 years.*

Sec. 36. Section 1.160 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 338, Statutes of Nevada 2007, at page 1533, is hereby amended to read as follows:

Sec. 1.160 Elective offices: Vacancies. Except as otherwise provided in NRS 268.325:

1. A vacancy in the office of Mayor, Council Member or Municipal Judge must be filled by the majority vote of the entire City Council within 30 days after the occurrence of that vacancy. A person may be selected to fill a prospective vacancy before the vacancy occurs. In such a case, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may participate in any action taken by the Council pursuant to this section. The appointee must have the same qualifications as are required of the elective official, including, without limitation, any applicable residency requirement.

2. ~~No~~ *Except as otherwise provided in section 5.010, no appointment extends beyond the first regular meeting of the City*

Council that follows the next general municipal election, at that election the office must be filled for the remainder of the unexpired term, or beyond the first regular meeting of the City Council after the Tuesday after the first Monday in the next succeeding June in an odd-numbered year, if no general municipal election is held in that year.

Sec. 37. Section 4.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 338, Statutes of Nevada 2007, at page 1536, is hereby amended to read as follows:

Sec. 4.020 Municipal Court: Qualifications of Municipal Judges; salary; Master Judge; departments; Alternate Judges.

1. Each Municipal Judge shall devote his or her full time to the duties of his or her office and must be:

(a) A duly licensed member, in good standing, of the State Bar of Nevada, but this qualification does not apply to any Municipal Judge who is an incumbent when this Charter becomes effective as long as he or she continues to serve as such in uninterrupted terms.

(b) A qualified elector who has resided within the territory which is established by the boundaries of the City for a period of not less than 30 days immediately before the last day for filing a declaration of candidacy for the department for which he or she is a candidate.

(c) Voted upon by the registered voters of the City at large.

2. The salary of the Municipal Judges must be fixed by ordinance and be uniform for all departments of the Municipal Court. The salary may be increased during the terms for which the Judges are elected or appointed.

3. The Municipal Judges of the six departments shall elect a Master Judge from among their number. The Master Judge shall hold office for a term of 2 years commencing on July 1 of each ~~odd-numbered year.~~ **year of a general municipal election.** If a vacancy occurs in the position of Master Judge, the Municipal Judges shall elect a replacement for the remainder of the unexpired term. If two or more Municipal Judges receive an equal number of votes for the position of Master Judge, the candidates who have received the tie votes shall resolve the tie vote by the drawing of lots. The Master Judge:

(a) Shall establish and enforce administrative regulations for governing the affairs of the Municipal Court.

(b) Is responsible for setting trial dates and other matters which pertain to the Court calendar.

(c) Shall perform such other Court administrative duties as may be required by the City Council.

4. Alternate Judges in sufficient numbers may be appointed annually by the Mayor, each of whom:

(a) Must be a duly licensed member, in good standing, of the State Bar of Nevada and have such other qualifications as are prescribed by ordinance.

(b) Has all of the powers and jurisdiction of a Municipal Judge while acting as such.

(c) Is entitled to such compensation as may be fixed by the City Council.

5. Any Municipal Judge, other than an Alternate Judge, automatically forfeits his or her office if he or she ceases to be a resident of the City.

Sec. 38. Section 5.010 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 637, Statutes of Nevada 1999, at page 3565, is hereby amended to read as follows:

Sec. 5.010 Primary municipal elections. *Except as otherwise provided in section 5.020:*

1. On the Tuesday after the first Monday in April 2001, and at each successive interval of 4 years, a primary municipal election must be held in the City at which time candidates for half of the offices of Council Member and for Municipal Judge, Department 2, must be nominated.

2. On the Tuesday after the first Monday in April 2003, and at each successive interval of 4 years, a primary municipal election must be held in the City at which time candidates for Mayor, for the other half of the offices of Council Member and for Municipal Judge, Department 1, must be nominated.

3. The candidates for Council Members who are to be nominated as provided in subsections 1 and 2 must be nominated and voted for separately according to the respective wards. The candidates from each even-numbered ward must be nominated as provided in subsection 1, and the candidates from each odd-numbered ward must be nominated as provided in subsection 2.

4. If the City Council has established an additional department or departments of the Municipal Court pursuant to section 4.010 ~~of this Charter,~~ and, as a result, more than one office of Municipal Judge is to be filled at any election, the candidates for those offices must be nominated and voted upon separately according to the respective departments.

5. Each candidate for the municipal offices which are provided for in subsections 1, 2 and 4 must file a declaration of candidacy with the City Clerk. All filing fees collected by the City Clerk must be paid into the City Treasury.

6. If, in the primary *municipal* election, regardless of the number of candidates for an office, one candidate receives a majority of votes which are cast in that election for the office for which he or she is a candidate, he or she must be declared elected for the term

which commences on the day of the first regular meeting of the City Council next succeeding the meeting at which the canvass of the returns is made, and no general municipal election need be held for that office. If, in the primary municipal election, no candidate receives a majority of votes which are cast in that election for the office for which he or she is a candidate, the names of the two candidates who receive the highest number of votes must be placed on the ballot for the general municipal election.

Sec. 39. Section 5.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1415, is hereby amended to read as follows:

Sec. 5.020 General municipal election.

1. ~~1A~~ ***Except as otherwise provided in subsection 2, a general municipal election must be held in the City on the Tuesday after the 1st Monday in June of each odd-numbered year and on the same day every 2 years thereafter, at which time there must be elected those officers whose offices are required to be filled by election in that year.***

2. ***The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.***

3. ***If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.***

4. ***If the City Council adopts an ordinance pursuant to subsection 2, the ordinance must not affect the term of office of any elected official of the City serving in office on the effective date of the ordinance. The next succeeding term for that office may be shortened but may not be lengthened as a result of the ordinance.***

5. All candidates for elective office, except the office of Council Member, must be voted upon by the registered voters of the City at large.

Sec. 40. (Deleted by amendment.)

Sec. 40.5. The Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, at page 1210, is hereby amended by adding thereto a new section to be designated as section 5.025, immediately following section 5.020, to read as follows:

Sec. 5.025 City Council authorized to ~~choose dates~~ provide for primary and general municipal elections ~~for dates to be in accordance with this Charter or chapter 293 of NRS; effect upon terms of serving city officials.~~ in even-numbered years.

1. ***The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set***

forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.

2. If the City Council adopts an ordinance pursuant to subsection 1, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal ~~election~~ elections and general municipal ~~election~~ elections.

3. If the City Council adopts an ordinance pursuant to subsection 1, the ordinance must not affect the term of office of any elected official of the City serving in office on the effective date of the ordinance. The next succeeding term for that office may be shortened but may not be lengthened as a result of the ordinance.

Sec. 41. Section 2.010 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2691, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Council Members and a Mayor.

2. The Mayor must be:

(a) A bona fide resident of the City for at least 6 months immediately preceding his or her election.

(b) A qualified elector within the City.

3. Each Council Member:

(a) Must be a qualified elector who has resided in the ward which he or she represents for at least 30 days immediately preceding the last day for filing a declaration of candidacy for his or her office.

(b) Must continue to live in the ward he or she represents, except that changes in ward boundaries made pursuant to section 1.045 ~~of this Charter~~ will not affect the right of any elected Council Member to continue in office for the term for which he or she was elected.

4. At the time of filing, if so required by an ordinance duly enacted, candidates for the office of Mayor and Council Member shall produce evidence in satisfaction of any or all of the qualifications provided in subsection 2 or 3, whichever is applicable.

5. Each Council Member must be voted upon only by the registered voters of the ward that he or she seeks to represent, and **except as otherwise provided in sections 5.010 and 5.025**, his or her term of office is 4 years.

6. The Mayor must be voted upon by the registered voters of the City at large, and **except as otherwise provided in sections 5.010 and 5.025**, his or her term of office is 4 years.

7. The Mayor and Council Members are entitled to receive a salary in an amount fixed by the City Council.

Sec. 42. Section 4.005 of the Charter of the City of North Las Vegas, being chapter 215, Statutes of Nevada 1997, as amended by chapter 73, Statutes of Nevada 2003, at page 484, is hereby amended to read as follows:

Sec. 4.005 Municipal Court.

1. There is a Municipal Court of the City which consists of at least one department. Each department must be presided over by a Municipal Judge and has such power and jurisdiction as is prescribed in, and is, in all respects which are not inconsistent with this Charter, governed by the provisions of chapters 5 and 266 of NRS which relate to municipal courts.

2. The City Council may, from time to time, by ordinance, establish additional departments of the Municipal Court and shall appoint an additional Municipal Judge for each additional department.

3. At the first ~~municipal~~ primary or ~~municipal~~ general ***municipal*** election that follows the appointment of an additional Municipal Judge to a newly created department of the Municipal Court, the successor to that Municipal Judge must be elected for an initial term of not more than 6 years, as determined by the City Council, in order that, as nearly as practicable, one-third of the number of Municipal Judges be elected every 2 years.

4. Except as otherwise provided by the ordinance establishing an additional department, each Municipal Judge must be voted upon by the registered voters of the City at large and , ***except as otherwise provided in sections 5.010 and 5.025***, holds office for a period of 6 years and until his or her successor has been elected and qualified.

5. The respective departments of the Municipal Court must be numbered 1 through the appropriate Arabic numeral, as additional departments are approved by the City Council. A Municipal Judge must be elected for each department by number.

Sec. 43. Section 5.010 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2691, is hereby amended to read as follows:

Sec. 5.010 General municipal elections.

1. ***Except as otherwise provided in section 5.025:***

(a) On the Tuesday after the first Monday in June 1977, and at each successive interval of 4 years thereafter, there must be elected, at a general ***municipal*** election to be held for that purpose, a Mayor and two Council Members who shall hold office for a period of 4 years and until their successors have been elected and qualified.

~~{2-}~~ (b) On the Tuesday after the first Monday in June 1975, and at each successive interval of 4 years thereafter, there must be elected, at a general ***municipal*** election to be held for that purpose, two Council Members, who shall hold office for a period of 4 years and until their successors have been elected and qualified.

~~{3-}~~ 2. In ~~such~~ a general ***municipal*** election:

(a) A candidate for the office of City Council Member must be elected only by the registered voters of the ward that he or she seeks to represent.

(b) Candidates for all other elective offices must be elected by the registered voters of the City at large.

Sec. 44. Section 5.020 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 9, Statutes of Nevada 2009, at page 17, is hereby amended to read as follows:

Sec. 5.020 Primary municipal elections; declaration of candidacy.

1. The City Council shall provide by ordinance for candidates for elective office to declare their candidacy and file the necessary documents. The seats for City Council Members must be designated by the numbers one through four, which numbers must correspond with the wards the candidates for City Council Members will seek to represent. A candidate for the office of City Council Member shall include in his or her declaration of candidacy the number of the ward which he or she seeks to represent. Each candidate for City Council must be designated as a candidate for the City Council seat that corresponds with the ward that he or she seeks to represent.

2. ~~1A~~ ***Except as otherwise provided in section 5.025, a primary municipal*** election must be held on the Tuesday following the first Monday in April preceding the general ***municipal*** election, at which time there must be nominated candidates for offices to be voted for at the next general ***municipal*** election. In the primary ***municipal*** election:

(a) A candidate for the office of City Council Member must be voted upon only by the registered voters of the ward that he or she seeks to represent.

(b) Candidates for all other elective offices must be voted upon by the registered voters of the City at large.

3. Except as otherwise provided in subsection 4, after the primary ***municipal*** election, the names of the two candidates who receive the highest number of votes must be placed on the ballot for the general ***municipal*** election.

4. If, regardless of the number of candidates for an office, one candidate receives a majority of the total votes cast for that office in the primary ***municipal*** election, he or she must be declared elected to that office and no general ***municipal*** election need be held for that office.

Sec. 45. (Deleted by amendment.)

Sec. 46. Section 2.010 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, as last amended by chapter 98, Statutes of Nevada 1977, at page 213, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Council Members.

2. The Council Members ~~shall~~ **must** be:

(a) Bona fide residents of the City for at least 6 months immediately preceding their election.

(b) Qualified electors in the City.

3. All Council Members ~~shall~~ **must** be voted upon by the registered voters of the City at large and, ***except as otherwise provided in section 5.010***, shall serve for terms of 4 years.

4. The Council Members shall receive a salary in an amount fixed by the City Council.

Sec. 47. Section 5.010 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, at page 912, is hereby amended to read as follows:

Sec. 5.010 Municipal elections.

1. ***Except as otherwise provided in subsection 2:***

(a) On the ~~1st~~ **first** Tuesday after the ~~1st~~ **first** Monday in June 1975, and at each successive interval of 4 years, there ~~shall~~ **must** be elected by the qualified voters of the City, at a general ***municipal*** election to be held for that purpose, a Mayor and two Council Members, who shall hold office for a period of 4 years and until their successors have been elected and qualified.

~~2.~~ (b) On the ~~1st~~ **first** Tuesday after the ~~1st~~ **first** Monday in June 1977, and at each successive interval of 4 years thereafter, there ~~shall~~ **must** be elected by the qualified voters of the City, at a general ***municipal*** election to be held for that purpose, two Council Members, who shall hold office for a period of 4 years and until their successors have been elected and qualified.

2. ***The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.***

3. ***If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.***

4. ***If the City Council adopts an ordinance pursuant to subsection 2, the term of office of any elected official may be shortened but may not be lengthened as a result of the ordinance.***

Sec. 48. (Deleted by amendment.)

Sec. 49. (Deleted by amendment.)

Sec. 50. This act becomes effective upon passage and approval.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Assembly Bill No. 132 relates to elections in certain cities.

Amendment No. 687 makes the following changes. If the city councils of Boulder City, Henderson, Las Vegas, and North Las Vegas vote to amend their city charters to align their elections with the State election cycle, the ordinances must not affect the term of office any elected official serving in office on the effective date of the ordinance.

Subsequent terms of office may be shortened to achieve the transition to the State election cycle.

Any proposed changes to the city charter of Elko are deleted from the bill.

Amendment adopted.

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

Assembly Bill No. 160.

Bill read second time.

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

Amendment No. 664.

"SUMMARY—Revises provisions governing the financial reports of certain medical facilities. (BDR 40-559)"

"AN ACT relating to medical facilities; revising provisions governing the form and publication of financial reports of certain medical facilities; requiring hospitals to include certain information in the financial reports submitted by the hospitals; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain medical facilities to file financial information with the Department of Health and Human Services. (NRS 449.490)

Section 2 of this bill requires that financial statements filed by certain hospitals include additional financial information about the hospitals. **Section 2** further requires these reports and other related reports from medical institutions to be in a form which is readily understandable by members of the general public and included on an Internet website maintained by the Nevada Department of Health and Human Services. In addition, **section 1** of this bill specifies additional information that must be included on the Internet website. Under existing law, the Director of the Department is authorized to impose an administrative penalty of not more than \$500 per day for a violation of these reporting requirements. (NRS 449.530)

Existing law requires the Director of the Department to submit a report to the Legislative Committee on Health Care and the Interim Finance Committee of the Department's operations and activities for the preceding fiscal year. (NRS 449.520) **Section 3** of this bill requires that the report include an analysis of the methodologies used to determine the corporate home office allocation of hospitals in this State.

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

Section 1. NRS 439A.270 is hereby amended to read as follows:

439A.270 1. The Department shall establish and maintain an Internet website that includes the information concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State as required by the programs established pursuant to NRS 439A.220 and 439A.240. The information must:

(a) Include, for each hospital in this State, the total number of patients discharged, the average length of stay and the average billed charges, reported for the 50 most frequent diagnosis-related groups for inpatients and 50 medical treatments for outpatients that the Department determines are most useful for consumers;

(b) Include, for each surgical center for ambulatory patients in this State, the total number of patients discharged and the average billed charges, reported for 50 medical treatments for outpatients that the Department determines are most useful for consumers;

(c) Be presented in a manner that allows a person to view and compare the information for the hospitals by:

- (1) Geographic location of each hospital;
- (2) Type of medical diagnosis; and
- (3) Type of medical treatment;

(d) Be presented in a manner that allows a person to view and compare the information for the surgical centers for ambulatory patients by:

- (1) Geographic location of each surgical center for ambulatory patients;
- (2) Type of medical diagnosis; and
- (3) Type of medical treatment;

(e) Be presented in a manner that allows a person to view and compare the information separately for:

- (1) The inpatients and outpatients of each hospital; and
- (2) The outpatients of each surgical center for ambulatory patients;

(f) Be readily accessible and understandable by a member of the general public;

(g) Include the annual summary of reports of sentinel events prepared pursuant to paragraph (d) of subsection 1 of NRS 439.840; ~~and~~

(h) ***Include a link to electronic copies of all reports, summaries, compilations and supplementary reports required by NRS 449.450 to 449.530, inclusive;***

(i) ***Include, for each hospital ~~in this State,~~ with 100 or more beds, a summary of financial information which is readily understandable by a member of the general public and which includes, without limitation, a summary of:***

(1) The expenses of the hospital which are attributable to providing community benefits and in-kind services as reported pursuant to NRS 449.490;

(2) *The capital improvement report submitted to the Department pursuant to NRS 449.490;*

(3) *The net income of the hospital;*

(4) *The net income of the consolidated corporation, if the hospital is owned by such a corporation and if that information is publicly available;*

(5) *The operating margin of the hospital;*

(6) *The ratio of the cost of providing care to patients covered by Medicare to the charges for such care;*

(7) *The ratio of the total costs to charges of the hospital; and*

(8) *The average daily occupancy of the hospital; and*

(j) Provide any other information relating to the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State which the Department determines is:

(1) Useful to consumers;

(2) Nationally recognized; and

(3) Reported in a standard and reliable manner.

2. The Department shall:

(a) Publicize the availability of the Internet website;

(b) Update the information contained on the Internet website at least quarterly;

(c) Ensure that the information contained on the Internet website is accurate and reliable;

(d) Ensure that the information contained on the Internet website is aggregated so as not to reveal the identity of a specific inpatient or outpatient of a hospital;

(e) Post a disclaimer on the Internet website indicating that the information contained on the website is provided to assist with the comparison of hospitals and is not a guarantee by the Department or its employees as to the charges imposed by the hospitals in this State or the quality of the services provided by the hospitals in this State, including, without limitation, an explanation that the actual amount charged to a person by a particular hospital may not be the same charge as posted on the website for that hospital;

(f) Provide on the Internet website established pursuant to this section a link to the Internet website of the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services; and

(g) Upon request, make the information that is contained on the Internet website available in printed form.

3. As used in this section, "diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Sec. 2. NRS 449.490 is hereby amended to read as follows:

449.490 1. Every institution which is subject to the provisions of NRS 449.450 to 449.530, inclusive, shall file with the Department the

following financial statements or reports in a form and at intervals specified by the Director but at least annually:

(a) A balance sheet detailing the assets, liabilities and net worth of the institution for its fiscal year; and

(b) A statement of income and expenses for the fiscal year.

2. Each hospital with 100 or more beds shall file with the Department, in a form and at intervals specified by the Director but at least annually, a capital improvement report which includes, without limitation, any major service line that the hospital has added or is in the process of adding since the previous report was filed, any major expansion of the existing facilities of the hospital that has been completed or is in the process of being completed since the previous report was filed, and any major piece of equipment that the hospital has acquired or is in the process of acquiring since the previous report was filed.

3. In addition to the information required to be filed pursuant to subsections 1 and 2, each hospital with 100 or more beds shall file with the Department, in a form and at intervals specified by the Director but at least annually:

(a) ~~The corporate home office allocation methodology of the hospital, if any.~~

~~(b)~~ The expenses that the hospital has incurred for providing community benefits and the in-kind services that the hospital has provided to the community in which it is located. ***These expenses must be reported as the total amount expended for community benefits and in-kind services and reported as a percentage of the total net revenues of the hospital.*** For the purposes of this paragraph, "community benefits" includes, without limitation, goods, services and resources provided by a hospital to a community to address the specific needs and concerns of that community, services provided by a hospital to the uninsured and underserved persons in that community, training programs for employees in a community and health care services provided in areas of a community that have a critical shortage of such services, for which the hospital does not receive full reimbursement.

~~(e)~~ (b) A statement of its policies and procedures for providing discounted services to, or reducing charges for services provided to, persons without health insurance that are in addition to any reduction or discount required to be provided pursuant to NRS 439B.260.

~~(d)~~ (c) ***A list of the services which the hospital purchased from its corporate home office;***

(d) ***A report of the cost to the hospital of providing services to patients covered by Medicare;***

(e) ***Financial information from the consolidated corporation, if the hospital is owned by such a corporation and if that information is publicly available, including, without limitation, the annual report of the consolidated corporation;***

(f) A statement of its policies regarding patients' account receivables, including, without limitation, the manner in which a hospital collects or makes payment arrangements for patients' account receivables, the factors that initiate collections and the method by which unpaid account receivables are collected.

4. A complete current charge master must be available at each hospital during normal business hours for review by the Director, any payor that has a contract with the hospital to pay for services provided by the hospital, any payor that has received a bill from the hospital and any state agency that is authorized to review such information. The complete and current charge master must be made available to the Department, at the request of the Director, in an electronic format specified by the Department. The Department may use the electronic copy of the charge master to review and analyze the data contained in the charge master and, except as otherwise provided in NRS 439A.200 to 439A.290, inclusive, shall not release or publish the information contained in the charge master.

5. The Director shall require the certification of specified financial reports by an independent certified public accountant and may require attestations from responsible officers of the institution that the reports are, to the best of their knowledge and belief, accurate and complete to the extent that the certifications and attestations are not required by federal law.

6. The Director shall require ~~the~~ :

(a) The filing of all reports by specified dates, and may adopt regulations which assess penalties for failure to file as required ~~;~~ ~~but the Director shall not require the~~ ; *and*

(b) The submission of a final annual report ~~sooner~~ *not later* than 6 months after the close of the fiscal year,

↪ *and* may grant extensions to institutions which can show that the required information is not available on the required reporting date.

7. All reports, except privileged medical information, filed under any provisions of NRS 449.450 to 449.530, inclusive ~~are~~ :

(a) Are open to public inspection ~~and must~~ ;

(b) Must be in a form which is readily understandable by a member of the general public;

(c) Must, as soon as practicable after those reports become available, be posted on the Internet website maintained pursuant to NRS 439A.270; and

(d) Must be available for examination at the office of the Department during regular business hours.

Sec. 3. NRS 449.520 is hereby amended to read as follows:

449.520 1. On or before October 1 of each year, the Director shall prepare and transmit to the Governor, the Legislative Committee on Health Care and the Interim Finance Committee a report of the Department's operations and activities for the preceding fiscal year.

2. The report prepared pursuant to subsection 1 must include:

(a) Copies of all *reports*, summaries, compilations and supplementary reports required by NRS 449.450 to 449.530, inclusive, together with such facts, suggestions and policy recommendations as the Director deems necessary;

(b) A summary of the trends of the audits of hospitals in this State that the Department required or performed during the previous year;

(c) An analysis of the trends in the costs, expenses and profits of hospitals in this State;

(d) An analysis of the *methodologies used to determine the* corporate home office allocation ~~methodologies~~ of hospitals in this State;

(e) An examination and analysis of the manner in which hospitals are reporting the information that is required to be filed pursuant to NRS 449.490, including, without limitation, an examination and analysis of whether that information is being reported in a standard and consistent manner, which fairly reflect the operations of each hospital;

(f) A review and comparison of the policies and procedures used by hospitals in this State to provide discounted services to, and to reduce charges for services provided to, persons without health insurance;

(g) A review and comparison of the policies and procedures used by hospitals in this State to collect unpaid charges for services provided by the hospitals; and

(h) A summary of the status of the programs established pursuant to NRS 439A.220 and 439A.240 to increase public awareness of health care information concerning the hospitals and surgical centers for ambulatory patients in this State, including, without limitation, the information that was posted in the preceding fiscal year on the Internet website maintained for those programs pursuant to NRS 439A.270.

3. The Legislative Committee on Health Care shall develop a comprehensive plan concerning the provision of health care in this State which includes, without limitation:

(a) A review of the health care needs in this State as identified by state agencies, local governments, providers of health care and the general public; and

(b) A review of the capital improvement reports submitted by hospitals pursuant to subsection 2 of NRS 449.490.

Sec. 4. (Deleted by amendment.)

Senator Copenig moved the adoption of the amendment.

Remarks by Senator Copenig.

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

Amendment No. 664 revises Assembly Bill No. 160 by clarifying that only hospitals with 100 or more beds are required to include a summary of financial information in the required report.

Amendment adopted.

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

Assembly Bill No. 179.

Bill read second time.

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

Amendment No. 773.

"SUMMARY—Revises provisions relating to disciplinary action against a public employee. (BDR 23-841)"

"AN ACT relating to public personnel; requiring that certain procedures be followed before taking disciplinary action against a public employee; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, an appointing authority may dismiss or demote a permanent classified employee if the appointing authority considers that the dismissal or demotion will serve the good of the public service, and the appointing authority may suspend a permanent employee without pay for disciplinary purposes for up to 30 days. (NRS 284.385) The employee may then request a hearing to determine whether the dismissal, demotion or suspension was reasonable. (NRS 284.390)

Section 1.5 of this bill requires an appointing authority to provide each employee of the appointing authority with a copy of a policy approved by the Personnel Commission that explains certain information relating to disciplinary action. **Section 2** of this bill requires an appointing authority to consult with the Attorney General or, if the appointing authority is part of the Nevada System of Higher Education, its general counsel, regarding any proposed disciplinary action before imposing the disciplinary action. **Section 3** of this bill requires certain investigations relating to disciplinary action against a public employee to be completed within 90 days after the employee is given notice of the allegations or investigation and provide for an extension of that time period.

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

Section 1. (Deleted by amendment.)

Sec. 1.5. NRS 284.383 is hereby amended to read as follows:

284.383 1. The Commission shall adopt by regulation a system for administering disciplinary measures against a state employee in which, except in cases of serious violations of law or regulations, less severe measures are applied at first, after which more severe measures are applied only if less severe measures have failed to correct the employee's deficiencies.

2. The system adopted pursuant to subsection 1 must provide that a state employee is entitled to receive a copy of any findings or recommendations made by an appointing authority or the representative of the appointing authority, if any, regarding proposed disciplinary action.

3. *An appointing authority shall provide each permanent classified employee of the appointing authority with a copy of a policy approved by*

the Commission that explains prohibited acts, possible violations and penalties and a fair and equitable process for taking disciplinary action against such an employee.

Sec. 2. NRS 284.385 is hereby amended to read as follows:

284.385 1. An appointing authority may:

(a) Dismiss or demote any permanent classified employee when the appointing authority considers that the good of the public service will be served thereby.

(b) Except as otherwise provided in NRS 284.148, suspend without pay, for disciplinary purposes, a permanent employee for a period not to exceed 30 days.

2. *Before a permanent classified employee is dismissed, involuntarily demoted or suspended, the appointing authority must consult with the Attorney General or, if the employee is employed by the Nevada System of Higher Education, the appointing authority's general counsel, regarding the proposed discipline. After such consultation, the appointing authority may take such lawful action regarding the proposed discipline as it deems necessary under the circumstances.*

3. A dismissal, involuntary demotion or suspension does not become effective until the employee is notified in writing of the dismissal, involuntary demotion or suspension and the reasons therefor. The notice may be delivered personally to the employee or mailed to the employee at the employee's last known address by registered or certified mail, return receipt requested. If the notice is mailed, the effective date of the dismissal, involuntary demotion or suspension shall be deemed to be the date of delivery or if the letter is returned to the sender, 3 days after mailing.

~~13-1~~ 4. No employee in the classified service may be dismissed for religious or racial reasons.

Sec. 3. NRS 284.387 is hereby amended to read as follows:

284.387 1. An employee who is the subject of an internal administrative investigation that could lead to disciplinary action against the employee pursuant to NRS 284.385 must be:

~~11-1~~ (a) Provided notice in writing of the allegations against the employee before the employee is questioned regarding the allegations; and

~~12-1~~ (b) Afforded the right to have a lawyer or other representative of the employee's choosing present with the employee at any time that the employee is questioned regarding those allegations. The employee must be given not less than 2 business days to obtain such representation, unless the employee waives the employee's right to be represented.

2. *An internal administrative investigation that could lead to disciplinary action against an employee pursuant to NRS 284.385 and any determination made as a result of such an investigation must be completed and the employee notified of any disciplinary action within 90 days after the employee is provided notice of the allegations pursuant to paragraph (a) of subsection 1. If the appointing authority cannot complete*

the investigation and make a determination within 90 days after the employee is provided notice of the allegations pursuant to paragraph (a) of subsection 1, the appointing authority may request an extension of not more than 60 days from the Director upon showing good cause for the delay. No further extension may be granted unless approved by the Governor.

Sec. 4. This act becomes effective on July 1, 2011.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Assembly Bill No. 179 relates to the State personnel system. Amendment No. 773 clarifies that, prior to taking disciplinary action against a public employee, the appointing authority is not required to get permission from legal counsel.

Amendment adopted.

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

Assembly Bill No. 230.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 727.

"SUMMARY—Authorizes an alternative route to licensure for teachers and administrators. (BDR 34-738)"

"AN ACT relating to educational personnel; **requiring the State Board of Education to evaluate certain providers of education and training which are offered to qualify a person to be a teacher or administrator or to perform other educational functions;** requiring the Commission on Professional Standards in Education to adopt regulations prescribing the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires the State Board of Education to conduct an annual evaluation of each provider approved by the State Board or the Commission on Professional Standards in Education to offer a course of study or training designed to qualify a person to be a teacher or administrator or to perform other educational functions, including qualified providers of alternative routes to licensure approved by the Commission pursuant to section 2 of this bill.

~~Existing law requires the Commission on Professional Standards in Education~~ to adopt regulations prescribing the qualifications for licensing teachers and other educational personnel in this State. The regulations govern the issuance of a regular license and a special qualifications license. (NRS 391.019) The regulations are subject to the approval of the State Board ~~of Education,~~ which has the authority to disapprove any regulation adopted by the Commission for certain specified reasons. (NRS 391.027)

~~Section 1 of this bill~~ 2 requires the Commission to adopt regulations prescribing the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure and sets forth certain requirements that must be specified in those regulations, including: (1) that the required education and training may be provided by any qualified provider that has been approved by the Commission, including institutions of higher education and other providers that operate independently of an institution of higher education; (2) that the education and training required under the alternative route to licensure may be completed in 2 years or less; and (3) that, upon completion by a person of the education and training required under the alternative route to licensure and the satisfaction of all other requirements for licensure, the person must be issued a regular license. ~~Section 6 of this bill~~ 6 of this bill requires the Commission to adopt the regulations on or before December 31, 2011.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Board shall, on an annual basis, evaluate each provider approved by the State Board or the Commission to offer a course of study or training designed to qualify a person to be a teacher or administrator or to perform other educational functions, including, without limitation, a qualified provider approved by the Commission pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 391.019. The evaluation must include, without limitation, for each provider, the number of persons:

(a) Who received a license pursuant to this chapter after completing the course of study or training offered by the provider; and

(b) Identified in paragraph (a) who are employed by a school district or a charter school in this State after receiving a license and information relating to the performance evaluations of those persons conducted by the school district or charter school. The information relating to the performance evaluations must be reported in an aggregated format and not reveal the identity of a person.

2. The Department shall post on its Internet website the evaluation conducted pursuant to subsection 1.

~~Section 1~~ **Sec. 2.** NRS 391.019 is hereby amended to read as follows:

391.019 1. Except as otherwise provided in NRS 391.027, the Commission ~~+~~

~~(a) Shall~~ **shall** adopt regulations:

~~(1)~~ **(a)** Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses. The regulations ~~+~~ **must** :

(1) Must include, without limitation, the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure which provides that the required education and training may be provided by any qualified provider that has been approved by the Commission, including, without limitation, institutions of higher education and other providers that operate independently of an institution of higher education. The regulations adopted pursuant to this subparagraph must:

(I) Establish the requirements for approval as a qualified provider;

(II) Require a qualified provider to be selective in its acceptance of students;

(III) Require a qualified provider to provide supervised, school-based experiences and ongoing support for its students, such as mentoring and coaching;

(IV) Significantly limit the amount of course work required or provide for the waiver of required course work for students who achieve certain scores on tests;

(V) Allow for the completion in 2 years or less of the education and training required under the alternative route to licensure; ~~and~~

(VI) Provide that a person who has completed the education and training required under the alternative route to licensure and who has satisfied all other requirements for licensure may apply for a regular license pursuant to sub-subparagraph (VII) regardless of whether the person has received an offer of employment from a school district, charter school or private school; and

(VII) Upon the completion by a person of the education and training required under the alternative route to licensure and the satisfaction of all other requirements for licensure, provide for the issuance of a regular license to the person pursuant to the provisions of this chapter and the regulations adopted pursuant to this chapter.

(2) Must not prescribe qualifications which are more stringent than the qualifications set forth in NRS 391.0315 for a licensed teacher who applies for an additional license in accordance with that section.

~~[(2)]~~ *(b) Identifying fields of specialization in teaching which require the specialized training of teachers.*

~~[(3)]~~ *(c) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization.*

~~[(4)]~~ *(d) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.*

~~[(5)]~~ *(e) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Aging and Disability Services Division of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.*

~~[(6)]~~ *(f)* Requiring teachers and other educational personnel to be registered with the Aging and Disability Services Division pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

~~[(1)]~~ *(1)* Provide instruction or other educational services; and

~~[(1)]~~ *(2)* Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

~~[(7)]~~ *(g)* Providing for the issuance and renewal of a special qualifications license to an applicant who holds a bachelor's degree, a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

~~[(1)]~~ *(1)* At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

~~[(1)]~~ *(2)* At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

→ An applicant for licensure pursuant to this ~~subparagraph~~ **paragraph** who holds a bachelor's degree must submit proof of participation in a program of student teaching or mentoring or agree to participate in a program of mentoring or courses of pedagogy for the first 2 years of the applicant's employment as a teacher with a school district or charter school.

~~[(8)]~~ *(h)* Requiring an applicant for a special qualifications license to:

~~[(1)]~~ *(1)* Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

~~[(1)]~~ *(2)* Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the bachelor's degree, master's degree or doctoral degree held by the applicant.

~~[(9)]~~ *(i)* Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the bachelor's degree, master's degree or doctoral degree held by that person.

~~[(10)]~~ *(j)* Providing for the issuance and renewal of a special qualifications license to an applicant who:

~~[(1)]~~ *(1)* Holds a bachelor's degree or a graduate degree from an accredited college or university in the field for which the applicant will be providing instruction;

~~[(1)]~~ *(2)* Is not licensed to teach public school in another state;

~~[(1)]~~ *(3)* Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

~~[(1)]~~ *(4)* Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of the applicant's employment as a teacher with a school district

or charter school if the applicant holds a graduate degree or, if the applicant holds a bachelor's degree, submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring or courses of pedagogy for the first 2 years of his or her employment as a teacher with a school district or charter school.

↪ An applicant for licensure pursuant to this ~~subparagraph~~ **paragraph** is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

~~{(b) May}~~

2. Except as otherwise provided in NRS 391.027, the Commission may adopt such other regulations as it deems necessary for its own government or to carry out its duties.

~~{2.}~~ **3.** Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the Commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

~~{3.}~~ **4.** A person who is licensed pursuant to ~~subparagraph (7) or (10) of~~ paragraph ~~{(a)}~~ **(g) or (j)** of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if the person is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

~~{Sec. 2.}~~ **Sec. 3.** NRS 391.021 is hereby amended to read as follows:

391.021 Except as otherwise provided in ~~subparagraph (10) of~~ paragraph ~~{(a)}~~ **(j)** of subsection 1 of NRS 391.019 and NRS 391.027, the Commission shall adopt regulations governing examinations for the initial licensing of teachers and other educational personnel. The examinations must test the ability of the applicant to teach and the applicant's knowledge of each specific subject he or she proposes to teach. Each examination must include the following subjects:

1. The laws of Nevada relating to schools;
2. The Constitution of the State of Nevada; and
3. The Constitution of the United States.

↪ The provisions of this section do not prohibit the Commission from adopting regulations pursuant to subsection 2 of NRS 391.032 that provide

an exemption from the examinations for teachers and other educational personnel from another state if the Commission determines that the examinations required for initial licensure for teachers and other educational personnel in that state are comparable to the examinations required for initial licensure in this State.

~~Sec. 3.~~ **Sec. 4.** NRS 391.031 is hereby amended to read as follows:

391.031 There are the following kinds of licenses for teachers and other educational personnel in this State:

1. A license to teach elementary education, which authorizes the holder to teach in any elementary school in the State.

2. A license to teach middle school or junior high school education, which authorizes the holder to teach in his or her major or minor field of preparation or in both fields in grades 7, 8 and 9 at any middle school or junior high school. He or she may teach only in these fields unless an exception is approved pursuant to regulations adopted by the Commission.

3. A license to teach secondary education, which authorizes the holder to teach in his or her major or minor field of preparation or in both fields in any secondary school. He or she may teach only in these fields unless an exception is approved pursuant to regulations adopted by the Commission.

4. A special license, which authorizes the holder to teach or perform other educational functions in a school or program as designated in the license.

5. A special license designated as a special qualifications license, which authorizes the holder to teach only in the grades and subject areas designated in the license. A special qualifications license is valid for 3 years and may be renewed in accordance with the applicable regulations of the Commission adopted pursuant to ~~subparagraph (7) or (10) of~~ paragraph ~~(a)~~ **(g) or (j)** of subsection 1 of NRS 391.019.

~~Sec. 4.~~ **Sec. 5.** NRS 391.037 is hereby amended to read as follows:

391.037 1. The State Board shall:

(a) Prescribe by regulation the standards for approval of a course of study or training offered by an educational institution to qualify a person to be a teacher or administrator or to perform other educational functions.

(b) Maintain descriptions of the approved courses of study required to qualify for endorsements in fields of specialization and provide to an applicant, upon request, the approved course of study for a particular endorsement.

2. Except for an applicant who submits an application for the issuance of a license pursuant to subparagraph ~~(7) or (10)~~ **(I)** of paragraph **(a) or paragraph (g) or (j)** of subsection 1 of NRS 391.019, an applicant for a license as a teacher or administrator or to perform some other educational function must submit with his or her application, in the form prescribed by the Superintendent of Public Instruction, proof that the applicant has satisfactorily completed a course of study and training approved by the State Board pursuant to subsection 1.

~~§Sec. 5.1~~ **Sec. 6.** The Commission on Professional Standards in Education shall, on or before December 31, 2011, adopt the regulations required by the provisions of subparagraph (1) of paragraph (a) of subsection 1 of NRS 391.019, as amended by section ~~4.1~~ **2** of this act.

~~§Sec. 6.1~~ **Sec. 7.** This act becomes effective on July 1, 2011.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

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

Amendment No. 727 makes two changes to the bill. First, the amendment requires the Commission on Professional Standards in Education to adopt regulations allowing for a candidate to apply for a license obtained through an alternative route prior to receiving an offer for employment from a school district, charter school, or private school.

Second, the amendment requires the State Board of Education to adopt regulations to evaluate qualified providers of education and training for licensure of teachers and administrators.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 238.

Bill read second time.

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

Amendment No. 633.

"SUMMARY—Revises provisions concerning the refunding of certain municipal securities. (BDR 20-244)"

"AN ACT relating to local government finance; revising provisions concerning the refunding of municipal securities related to infrastructure projects in certain counties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Since October 1, 1999, a county has been authorized, as part of a lending project under the County Bond Law, to acquire securities issued by a municipality located wholly or partially within the county: (1) to undertake one or more infrastructure projects; or (2) to refund those securities. In the latter case, a county's authority is limited to acquiring only those securities issued to refund municipal securities for infrastructure projects that were previously acquired by the county. (NRS 244A.0343, 244A.064) This bill **partially** eliminates this limitation on a county's authority in a county whose population is 100,000 or more but less than 700,000 (currently Washoe County) and thereby allows such a county to acquire securities that were issued by a ~~municipality to refund municipal securities issued previously for infrastructure~~ **water authority for water** projects regardless of whether those securities are held by the county or another entity. However, such a county may only acquire those municipal securities issued for purposes of refunding if the initial securities for the ~~infrastructure~~ **water** projects were issued by the municipality on or after October 1, 1999.

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

Section 1. NRS 244A.0343 is hereby amended to read as follows:

244A.0343 "Lending project" means :

1. In a county whose population is 100,000 or more but less than 700,000, the acquisition of municipal securities issued by a ~~municipality~~ water authority located wholly or partially within the county acquiring the municipal securities for one or more infrastructure projects which consist of capital improvements for a water system or for the refunding of municipal securities issued on or ~~before~~ after October 1, 1999, for one or more infrastructure projects which consist of capital improvements for a water system or any combination thereof.

2. In all other counties, the acquisition of municipal securities issued by a municipality located wholly or partially within the county acquiring the municipal securities for one or more infrastructure projects or for the refunding of municipal securities previously acquired as part of a lending project by a county for one or more infrastructure projects or any combination thereof.

Sec. 2. NRS 244A.064 is hereby amended to read as follows:

244A.064 In connection with any lending project, a county may:

1. Require additional security or credit enhancement for payment of municipal securities acquired as it deems prudent.

2. Make contracts and execute all necessary or desirable instruments or documents not in conflict with the requirements of the County Bond Law.

3. Provide by ordinance for its standards, policies and procedures for financing lending projects.

4. Acquire and hold municipal securities and execute the rights of the holder of those municipal securities.

5. Sell or otherwise dispose of municipal securities unless the county is limited by any agreement that is related to those securities.

6. ~~Refund any county general obligations issued for a lending project if~~
If the county and the municipality agree to the disposition of any savings resulting from the refunding ~~††~~ :

(a) In a county whose population is 100,000 or more but less than 700,000, refund:

(1) Any county general obligations issued for a lending project;

(2) Any municipal securities issued on or after October 1, 1999, for one or more infrastructure projects which consist of capital improvements for a water system ; or

(3) Any combination of subparagraphs (1) and (2).

(b) In all other counties, refund any county general obligations issued for a lending project.

7. Require payment by a municipality that participates in a lending project of the fees and expenses of the county in connection with the lending project.

8. Secure the payment of county general obligations issued for a lending project with a pledge of revenues of the lending project. If the revenues of a lending project are formally pledged to the county bonds issued to finance a lending project, the board may treat the revenues of the lending project financed by an issue of county general obligation bonds as pledged revenues pursuant to subsection 3 of NRS 350.020.

Sec. 3. This act becomes effective upon passage and approval.

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. 633 to Assembly Bill No. 238 clarifies the definition of "lending project" to mean the acquisition of municipal securities issued by a water authority for infrastructure projects consisting of capital improvements for a water system.

The amendment clarifies that infrastructure projects relating to improvements to water systems may be the basis for acquiring municipal securities for the purpose of refunding previously-issued securities; and makes one technical amendment to conform Section 1, with Section 2 by replacing the word "before" with the word "after."

Amendment adopted.

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

Assembly Bill No. 283.

Bill read second time.

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

Amendment No. 705.

"SUMMARY—Revises provisions relating to mortgage loans. (BDR 54-830)"

"AN ACT relating to mortgage loans; revising provisions governing the requirement for certain mortgage agents, mortgage bankers, mortgage brokers and other employees to register with the Nationwide Mortgage Licensing System and Registry; revising provisions governing continuing education requirements for certain licensees; ~~providing~~ clarifying that certain investors who deposit money with a mortgage broker ~~with an exemption~~ are exempt from criminal and civil liability for the acts or omissions of the mortgage broker; revising provisions governing the employment or association of mortgage agents; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 requires that a person who originates residential mortgage loans be licensed as a loan originator and requires that such a loan originator be registered with the Nationwide Mortgage Licensing System and Registry. (12 U.S.C. § 5103) Existing law in Nevada prescribes the requirements for a license as a mortgage agent, mortgage banker, mortgage broker or a qualified employee who is a residential mortgage loan originator, which include,

without limitation, registration with the Nationwide Mortgage Licensing System and Registry. (NRS 645B.0137, 645E.200) **Section 6** of this bill provides that such a person is not required to register or renew with the Nationwide Mortgage Licensing System and Registry, or provide reports of financial condition to the Registry, if: (1) the person is not a residential mortgage loan originator or the supervisor of a residential mortgage loan originator; and (2) the person is not required to register pursuant to the federal Act. **Section 6** also provides that such a person who voluntarily registers or renews with the Registry shall comply with all requirements of the federal Act.

Under existing law, the Commissioner of Mortgage Lending is required to adopt such regulations as necessary to carry out the provisions of the federal Act. (NRS 645F.293) **Section 7** of this bill provides that the regulations must not require registration of a person who is exempt pursuant to **section 6**.

Sections ~~1, 2 and 4~~ 1.5, 2 and 4 of this bill revise provisions governing continuing education requirements for persons who are exempt pursuant to **section 6** and who have not voluntarily registered or renewed with the Registry. ~~Section~~ **Sections 1 and 3** of this bill ~~exempts~~ **clarify that** certain investors who deposit money with a mortgage broker **are exempt** from criminal and civil liability for the acts or omissions of the mortgage broker. **Section 5** of this bill revises provisions governing the employment of or association with a mortgage agent by a mortgage broker, mortgage banker or person who holds a certificate of exemption issued by the Commissioner of Mortgage Lending. **Section 8** of this bill repeals certain provisions governing mortgage bankers which are included within the amendatory provisions of **section 5**.

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

Section 1. The Legislature hereby finds and declares that:

1. It is the intent of the Legislature to encourage investment in real property in this State;

2. It is the intent of the Legislature to ensure the integrity of transactions relating to investments in real property and the proper regulation of the actions of persons who facilitate such transactions, including, without limitation, mortgage brokers; and

3. It is the intent of the Legislature in enacting the amendatory provisions of NRS 645B.175, as amended by section 3 of this act, to clarify that the scope of the protection afforded to an investor under the existing provisions of chapter 645B of NRS includes protections from the imposition of any duty, responsibility, obligation or liability of a mortgage broker on an investor who only provides money to acquire, through the actions of a mortgage broker, ownership of or a beneficial interest in a loan secured by a lien on real property.

~~Section 1.1~~ **Sec. 1.5.** NRS 645B.0138 is hereby amended to read as follows:

645B.0138 1. A course of continuing education that is required pursuant to this chapter must meet the requirements set forth by the Commissioner by regulation.

2. The Commissioner shall adopt regulations:

(a) Relating to the requirements for courses of continuing education, including, without limitation, regulations relating to the providers and instructors of such courses, records kept for such courses, approval and revocation of approval of such courses, monitoring of such courses and disciplinary action taken regarding such courses.

(b) Allowing for the participation of representatives of the mortgage lending industry pertaining to the creation of regulations regarding such courses.

(c) Ensuring compliance with the requirements for registration with the Registry and any other applicable federal law.

3. *The regulations adopted by the Commissioner pursuant to subsection 2 must not require a mortgage agent, mortgage banker or mortgage broker or an employee of a mortgage banker or mortgage broker who, pursuant to subsection 1 of section 6 of this act, is not required to register or renew with the Registry and who has not voluntarily registered or renewed with the Registry to complete any continuing education relating to residential mortgage loans.*

Sec. 2. NRS 645B.051 is hereby amended to read as follows:

645B.051 1. Except as otherwise provided in ~~{this section,}~~ **subsection 2**, in addition to the requirements set forth in NRS 645B.050, to renew a license as a mortgage broker:

(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

2. ~~{The Commissioner may provide by regulation that if a person attends more than 10 hours of certified courses of continuing education during a 12 month period, the extra hours may be used to satisfy the requirement for the immediately following 12 month period and for that immediately following 12 month period only.}~~ ***In lieu of the continuing education requirements set forth in paragraph (a) or (b) of subsection 1, a licensee or any natural person who supervises the daily business of the licensee who, pursuant to subsection 1 of section 6 of this act, is not required to register or renew with the Registry and who has not voluntarily registered or renewed with the Registry must submit to the Commissioner satisfactory proof that he or she attended at least 5 hours of certified courses of***

continuing education during the 12 months immediately preceding the date on which the license expires. The hours of continuing education required by this subsection must include:

(a) At least 3 hours relating to the laws and regulations of this State; and

(b) At least 2 hours relating to ethics.

3. As used in this section, "certified course of continuing education" means a course of continuing education which relates to the mortgage industry or mortgage transactions and which meets the requirements set forth by the Commissioner by regulation pursuant to NRS 645B.0138.

Sec. 3. NRS 645B.175 is hereby amended to read as follows:

645B.175 1. Except as otherwise provided in this section, all money received by a mortgage broker and his or her mortgage agents from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property must:

(a) Be deposited in:

(1) An insured depository financial institution; or

(2) An escrow account which is controlled by a person who is independent of the parties and subject to instructions regarding the account which are approved by the parties.

(b) Be kept separate from money:

(1) Belonging to the mortgage broker in an account appropriately named to indicate that the money does not belong to the mortgage broker.

(2) Received pursuant to subsection 4.

2. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 1 must be released:

(a) Upon completion of the loan, including proper recordation of the respective interests or release, or upon completion of the transfer of the ownership or beneficial interest therein, to the debtor or the debtor's designee less the amount due the mortgage broker for the payment of any fee or service charge;

(b) If the loan or the transfer thereof is not consummated, to each investor who furnished the money held in trust; or

(c) Pursuant to any instructions regarding the escrow account.

3. The amount held in trust pursuant to subsection 1 must not be released to the debtor or the debtor's designee unless:

(a) The amount released is equal to the total amount of money which is being loaned to the debtor for that loan, less the amount due the mortgage broker for the payment of any fee or service charge; and

(b) The mortgage broker has provided a written instruction to a title agent or title insurer requiring that a lender's policy of title insurance or appropriate title endorsement, which names as an insured each investor who owns a beneficial interest in the loan, be issued for the real property securing the loan.

4. Except as otherwise provided in this section, all money paid to a mortgage broker and his or her mortgage agents by a person in full or in partial payment of a loan secured by a lien on real property, must:

(a) Be deposited in:

(1) An insured depository financial institution; or

(2) An escrow account which is controlled by a person who is subject to instructions regarding the account which are approved by the parties.

(b) Be kept separate from money:

(1) Belonging to the mortgage broker in an account appropriately named to indicate that it does not belong to the mortgage broker.

(2) Received pursuant to subsection 1.

5. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 4:

(a) Must be released, upon the deduction and payment of any fee or service charge due the mortgage broker, to each investor who owns a beneficial interest in the loan in exact proportion to the beneficial interest that the investor owns in the loan; and

(b) Must not be released, in any proportion, to an investor who owns a beneficial interest in the loan, unless the amount described in paragraph (a) is also released to every other investor who owns a beneficial interest in the loan.

6. An investor may waive, in writing, the right to receive one or more payments, or portions thereof, that are released to other investors in the manner set forth in subsection 5. A mortgage broker or mortgage agent shall not act as the attorney-in-fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection. Any such written waiver applies only to the payment or payments, or portions thereof, that are included in the written waiver and does not affect the right of the investor to:

(a) Receive the waived payment or payments, or portions thereof, at a later date; or

(b) Receive all other payments in full and in accordance with the provisions of subsection 5.

7. Upon reasonable notice, any mortgage broker described in this section shall:

(a) Account to any investor or debtor who has paid to the mortgage broker or his or her mortgage agents money that is required to be deposited in a trust account pursuant to this section; and

(b) Account to the Commissioner for all money which the mortgage broker and his or her mortgage agents have received from each investor or debtor and which the mortgage broker is required to deposit in a trust account pursuant to this section.

8. Money received by a mortgage broker and his or her mortgage agents pursuant to this section from a person who is not associated with the mortgage broker may be held in trust for not more than 45 days before an escrow account must be opened in connection with the loan. If, within this

45-day period, the loan or the transfer therefor is not consummated, the money must be returned within 24 hours. If the money is so returned, it may not be reinvested with the mortgage broker for at least 15 days.

9. If a mortgage broker or a mortgage agent receives any money pursuant to this section, the mortgage broker or mortgage agent, after the deduction and payment of any fee or service charge due the mortgage broker, shall not release the money to:

(a) Any person who does not have a contractual or legal right to receive the money; or

(b) Any person who has a contractual right to receive the money if the mortgage broker or mortgage agent knows or, in light of all the surrounding facts and circumstances, reasonably should know that the person's contractual right to receive the money violates any provision of this chapter or a regulation adopted pursuant to this chapter.

10. If a mortgage broker maintains any accounts described in subsection 1 or subsection 4, the mortgage broker shall, in addition to the annual financial statement audited pursuant to NRS 645B.085, submit to the Commissioner each 6 calendar months a financial statement concerning those trust accounts.

11. The Commissioner shall adopt regulations concerning the form and content required for financial statements submitted pursuant to subsection 10.

12. Any duty, responsibility or obligation of a mortgage broker pursuant to this chapter is not delegable or transferable to an investor, and, if an investor only provides money to acquire ownership of or a beneficial interest in a loan secured by a lien on real property, no criminal or civil liability may be imposed on the investor for any act or omission of a mortgage broker.

Sec. 4. NRS 645B.430 is hereby amended to read as follows:

645B.430 1. A license as a mortgage agent issued pursuant to NRS 645B.410 expires 1 year after the date the license is issued, unless it is renewed. To renew a license as a mortgage agent, the holder of the license must submit to the Commissioner each year, on or before the date the license expires:

(a) An application for renewal;

(b) Except as otherwise provided in this section, satisfactory proof that the holder of the license as a mortgage agent attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires; and

(c) A renewal fee set by the Commissioner of not more than \$170.

2. In lieu of the continuing education requirement set forth in paragraph (b) of subsection 1, the holder of a license as a mortgage agent who, pursuant to subsection 1 of section 6 of this act, is not required to register or renew with the Registry and who has not voluntarily registered or renewed with the Registry must submit to the Commissioner satisfactory proof that he or she attended at least 5 hours of certified courses of

continuing education during the 12 months immediately preceding the date on which the license expires. The hours of continuing education required by this subsection must include:

(a) At least 3 hours relating to the laws and regulations of this State; and

(b) At least 2 hours relating to ethics.

3. If the holder of the license as a mortgage agent fails to submit any item required pursuant to subsection 1 *or* 2 to the Commissioner each year on or before the date the license expires, the license is cancelled. The Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section; and

(c) A reinstatement fee of \$75.

~~3-4~~ 4. To be issued a duplicate copy of a license as a mortgage agent, a person must make a satisfactory showing of its loss and pay a fee of \$10.

~~4-4~~ 5. To change the mortgage broker with whom the mortgage agent is associated, a person must pay a fee of \$10.

~~5-4~~ 6. Money received by the Commissioner pursuant to this section is in addition to any fee that must be paid to the Registry and must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

~~6- The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12 month period, but not needed to satisfy a requirement set forth in this section for the 12 month period in which the hours were taken, may be used to satisfy a requirement set forth in this section for a later 12 month period.~~

7. As used in this section, "certified course of continuing education" has the meaning ascribed to it in NRS 645B.051.

Sec. 5. NRS 645B.450 is hereby amended to read as follows:

645B.450 1. A person licensed as a mortgage agent pursuant to the provisions of NRS 645B.410 may not be associated with or employed by more than one *licensed or registered* mortgage broker *or mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016* at the same time.

2. A mortgage broker , *mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016* shall not associate with or employ a person as a mortgage agent or authorize a person to be associated with the mortgage broker , *mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016* as a mortgage agent if the mortgage agent is not licensed with the Division pursuant to NRS 645B.410. *Before allowing a mortgage agent to act on its behalf, a mortgage broker, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016, must:*

(a) Enter its sponsorship of the mortgage agent with the Registry; or

(b) If the mortgage agent is not required to be registered with the Registry, notify the Division of its sponsorship of the mortgage agent.

3. If a mortgage agent terminates his or her association or employment with a mortgage broker, *mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016* for any reason, the mortgage broker, *mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016* shall, not later than the third business day following the date of termination:

(a) ~~Deliver~~ *Remove its sponsorship of the mortgage agent from the Registry; or*

(b) If the mortgage agent is not required to be registered with the Registry, deliver to the Division and to the mortgage agent for send by certified mail to at the last known residence address of the mortgage agent a written statement which ~~advises the mortgage agent that the termination is being reported to the Division; and~~

~~(b) Deliver or send by certified mail to the Division:~~

~~(1) The license or license number of the mortgage agent;~~

~~(2) A written statement of the circumstances surrounding the termination; and~~

~~(3) A copy of the written statement that the mortgage broker delivers or mails to the mortgage agent pursuant to paragraph (a);~~ *includes the name, address and license number of the mortgage agent and a statement of the circumstances of the termination.*

Sec. 6. Chapter 645F of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A mortgage agent, mortgage banker or mortgage broker or an employee of a mortgage banker or mortgage broker is not required to register or renew with the Registry, or provide reports of financial condition to the Registry, if the mortgage agent, mortgage banker, mortgage broker or employee:*

(a) Is not a residential mortgage loan originator or the supervisor of a residential mortgage loan originator; and

(b) Is not required to register pursuant to the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

2. *A mortgage agent, mortgage banker or mortgage broker or an employee of a mortgage banker or mortgage broker who, pursuant to subsection 1, is not required to register or renew with the Registry and who voluntarily registers or renews with the Registry shall comply with all requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, and any regulations adopted pursuant thereto.*

3. *As used in this section, "residential mortgage loan originator" has the meaning ascribed to it in NRS 645B.01325.*

Sec. 7. NRS 645F.293 is hereby amended to read as follows:

645F.293 1. The Commissioner shall adopt regulations to carry out the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

2. The regulations must include, without limitation:

(a) A method by which to allow for reporting regularly violations of the relevant provisions of chapter 645B or 645E of NRS, enforcement actions and other relevant information to the Registry; and

(b) A process whereby a person may challenge information reported to the Registry by the Commissioner.

3. *The regulations must not require a mortgage agent, mortgage banker or mortgage broker or an employee of a mortgage banker or mortgage broker to register with the Registry if the mortgage agent, mortgage banker, mortgage broker or employee is exempt from registration pursuant to subsection 1 of section 6 of this act.*

Sec. 8. NRS 645E.292 is hereby repealed.

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

TEXT OF REPEALED SECTION

645E.292 Duties of mortgage banker upon termination of mortgage agent. If a mortgage agent terminates his or her association or employment with a mortgage banker for any reason, the mortgage banker shall, not later than 3 business days following knowledge of the date of termination:

1. Deliver to the mortgage agent or send by certified mail to the last known residence address of the mortgage agent a written statement which advises the mortgage agent that the termination is being reported to the Division; and

2. Deliver or send by certified mail to the Division:

(a) The license or license number of the mortgage agent;

(b) A written statement of the circumstances surrounding the termination; and

(c) A copy of the written statement that the mortgage banker delivers or mails to the mortgage agent pursuant to subsection 1.

Senator Roberson moved the adoption of the amendment.

Remarks by Senator Roberson.

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

Amendment No. 705 to Assembly Bill No. 283 merely clarifies the legislative intent of the bill by declaring that it has always been the legislative intent that an investor is not liable for the actions of a mortgage broker if all the investor did was to provide money for a broker to loan to borrowers.

Amendment adopted.

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

Assembly Bill No. 289.

Bill read second time.

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

Amendment No. 709.

"SUMMARY—Enacts provisions relating to the practice of dietetics. (BDR 54-871)"

"AN ACT relating to dietetics; ~~recreating the State Board of Dietetics; prescribing the powers and duties of the Board; providing for the membership of the Board;~~ providing for the licensure of dietitians, ~~by the State Board of Health;~~ prohibiting a person from engaging in the practice of dietetics without a license issued by the Board; setting forth the grounds for disciplinary action against a licensed dietitian; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill provides for the licensing and regulation of the practice of dietetics by the State Board of ~~Dietetics;~~ **Health.** The practice of dietetics is the performance of acts of assessment, evaluation, diagnosis, counseling, intervention, monitoring or treatment of a person relating to nutrition, food, biology, and behavior to achieve and maintain proper nourishment and care of the health of the person.

~~Sections 11-19 of this bill create the State Board of Dietetics and prescribe the powers and duties of the Board and include provisions concerning: (1) the membership of the Board; (2) the meetings of the Board; (3) the compensation of Board members; (4) a waiver of liability for actions taken by members or employees of the Board within the scope of their duties; and (5) the authority of the Board to adopt certain regulations.~~

Sections 2-10 and 20-31 of this bill regulate the activities of persons who engage in the practice of dietetics and include provisions concerning: (1) applications for and renewals of a license to engage in the practice of dietetics; and (2) the duties and scope of practice of a licensed dietitian.

Sections 18 and 33 of this bill require the Board to charge and collect certain fees relating to the issuance of licenses and to carry out its other duties.

Section 23 of this bill authorizes the Board to issue a provisional license to a person who does not meet all the qualifications for licensure under certain circumstances. **Section 24** of this bill authorizes the Board to issue a temporary license to a person for the limited purpose of treating patients in this State for a limited period under certain circumstances.

Sections 34-44 of this bill govern disciplinary proceedings against a licensed dietitian and authorize the Board to suspend or revoke a license or deny an application for a license under certain circumstances. **Section 45** of this bill prohibits a person who is not licensed pursuant to the provisions of this bill from acting or holding himself or herself out as a licensed dietitian. **Section 46** of this bill provides that a violation of any provision of this bill is a misdemeanor and, in addition to any criminal penalty that may be imposed, authorizes the Board to impose a civil penalty for each violation.

Sections 47-51 and 58-60 of this bill include licensed dietitians in the definition of "provider of health care" to ensure that licensed dietitians

comply with the same requirements for standards of care, medical records and medical devices as other providers of health care such as doctors or nurses.

Sections 52-54 of this bill require a licensed dietitian to report suspected incidents of abuse or neglect of an older or vulnerable person, and require a report to be forwarded to the Board if a licensed dietitian is suspected of abuse or neglect of an older or vulnerable person.

~~Section 63 of this bill authorizes the Governor, for the initial appointments to the Board, to appoint persons who are not licensed dietitians but who meet the qualifications for licensure.~~ **Section 64** of this bill requires the Board to grant a license to engage in the practice of dietetics to a person who does not meet the qualifications for licensure but who was engaged in the practice of dietetics in this State before 2012 and meets certain other requirements.

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

Section 1. Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 1.5 to 46, inclusive, of this act.

Sec. 1.5. *The Legislature hereby declares that the practice of dietetics is a learned profession affecting the safety, health and welfare of the public and is subject to regulation to protect the public from the practice of dietetics by unqualified and unlicensed persons and from unprofessional conduct by persons licensed to practice dietetics.* ~~The Legislature further declares that the purpose of the State Board of Dietetics is to regulate the practice of dietetics and to enforce the provisions of this chapter.~~

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Board" means the State Board of ~~Dietetics.~~ Health.*

Sec. 4. *"Licensed dietitian" means a person licensed pursuant to this chapter to engage in the practice of dietetics or to provide nutrition services, including, without limitation, medical nutrition therapy.*

Sec. 4.5. *"Medical nutrition therapy" means the use of nutrition services by a licensed dietitian to manage, treat or rehabilitate a disease, illness, injury or medical condition of a patient.*

Sec. 5. *"Nutrition services" means the performance of acts designated by the Board which are within the practice of dietetics.*

Sec. 6. 1. *"Practice of dietetics" means the performance of any act in the nutrition care process, including, without limitation, assessment, evaluation, diagnosis, counseling, intervention, monitoring and treatment, of a person which requires substantial specialized judgment and skill based on the knowledge, application and integration of the principles derived from the sciences of food, nutrition, management, communication, biology,*

behavior, physiology and social science to achieve and maintain proper nourishment and care of the health of the person.

2. The term does not include acts of medical diagnosis.

Sec. 7. (Deleted by amendment.)

Sec. 8. *"Registered dietitian" means a person who is registered as a dietitian by the Commission on Dietetic Registration of the American Dietetic Association.*

Sec. 9. 1. *The provisions of this chapter do not apply to:*

(a) Any person who is licensed or registered in this State as a physician pursuant to chapter 630, 630A or 633 of NRS, dentist, nurse, dispensing optician, optometrist, occupational therapist, practitioner of respiratory care, physical therapist, podiatric physician, psychologist, marriage and family therapist, chiropractor, athletic trainer, massage therapist, perfusionist, doctor of Oriental medicine in any form, medical laboratory director or technician or pharmacist who:

(1) Practices within the scope of that license or registration;

(2) Does not represent that he or she is a licensed dietitian or registered dietitian; and

(3) Provides nutrition information incidental to the practice for which he or she is licensed or registered.

(b) A student enrolled in an educational program accredited by the Commission on Accreditation for Dietetics Education of the American Dietetic Association, if the student engages in the practice of dietetics under the supervision of a licensed dietitian or registered dietitian as part of that educational program.

(c) A registered dietitian employed by the Armed Forces of the United States, the United States Department of Veterans Affairs or any division or department of the Federal Government in the discharge of his or her official duties, including, without limitation, the practice of dietetics or providing nutrition services.

(d) A person who furnishes nutrition information , provides recommendations or advice concerning nutrition, or markets food, food materials or dietary supplements and provides nutrition information , recommendations or advice related to that marketing, if the person ~~is not engaged in the practice of dietetics and does not provide nutrition services.~~ does not represent that he or she is a licensed dietitian or registered dietitian. While performing acts described in this paragraph, a person shall be deemed not to be engaged in the practice of dietetics or the providing of nutrition services.

(e) A person who provides services relating to weight loss or weight control through a program reviewed by and in consultation with a licensed dietitian or physician or a dietitian licensed or registered in another state which has equivalent licensure requirements as this State, as long as the person does not change the services or program without the approval of the person with whom he or she is consulting.

2. *As used in this section, "nutrition information" means information relating to the principles of nutrition and the effect of nutrition on the human body, including, without limitation:*

- (a) *Food preparation;*
- (b) *Food included in a normal daily diet;*
- (c) *Essential nutrients required by the human body and recommended amounts of essential nutrients, based on nationally established standards;*
- (d) *The effect of nutrients on the human body and the effect of deficiencies in or excess amounts of nutrients in the human body; and*
- (e) *Specific foods or supplements that are sources of essential nutrients.*

Sec. 10. 1. *The purpose of licensing dietitians is to protect the public health, safety and welfare of the people of this State.*

2. *Any license issued pursuant to this chapter is a revocable privilege.*

Sec. 11. ~~(Deleted by amendment.)~~

Sec. 12. ~~(Deleted by amendment.)~~

Sec. 13. ~~(Deleted by amendment.)~~

Sec. 14. ~~(Deleted by amendment.)~~

Sec. 15. ~~(Deleted by amendment.)~~

Sec. 16. ~~(Deleted by amendment.)~~

Sec. 17. 1. *The Board shall make and keep a complete record of all its proceedings ~~and~~ pursuant to this chapter, including, without limitation:*

- (a) *A file of all applications for licenses pursuant to this chapter, together with the action of the Board upon each application;*
- (b) *A register of all licensed dietitians in this State; and*
- (c) *Documentation of any disciplinary action taken by the Board against a licensee.*

2. *The Board shall maintain in its main office a public docket or other record in which it shall record, from time to time as made, the rulings or decisions upon all complaints filed with the Board and all investigations instituted by it, upon or in connection with which any hearing has been held or in which the licensee charged has made no defense.*

Sec. 18. 1. *The Board ~~shall~~ may:*

- (a) *Adopt regulations establishing reasonable standards:*
 - (1) *For the denial, renewal, suspension and revocation of, and the placement of conditions, limitations and restrictions upon, a license to engage in the practice of dietetics.*
 - (2) *Of professional conduct for the practice of dietetics.*
- (b) *Investigate and determine the eligibility of an applicant for a license pursuant to this chapter.*
- (c) *Carry out and enforce the provisions of this chapter and the regulations adopted pursuant thereto.*

2. *The Board shall adopt regulations establishing reasonable:*

- (a) *Qualifications for the issuance of a license pursuant to this chapter.*

(b) *Standards for the continuing professional competence of licensees. The Board may evaluate licensees periodically for compliance with those standards.*

3. *The Board shall adopt regulations establishing a schedule of reasonable fees and charges for:*

(a) *Investigating licensees and applicants for a license pursuant to this chapter;*

(b) *Evaluating the professional competence of licensees;*

(c) *Conducting hearings pursuant to this chapter;*

(d) *Duplicating and verifying records of the Board; and*

(e) *Surveying, evaluating and approving schools and courses of dietetics,*

and may collect the fees established pursuant to this subsection.

4. *The Board may adopt such other regulations as it determines necessary*

~~(a) For its own government; and~~

~~(b) To carry out the provisions of this chapter relating to the practice of dietetics.~~

Sec. 19. *The Board may:*

1. *Accept gifts or grants of money to pay for the costs of administering the provisions of this chapter.*

2. *Enter into contracts with other public agencies and accept payment from those agencies to pay the expenses incurred by the Board in carrying out the provisions of this chapter relating to the practice of dietetics.*

Sec. 19.5. 1. *The Board may establish a Dietitian Advisory Group consisting of persons familiar with the practice of dietetics to provide the Board with expertise and assistance in carrying out its duties pursuant to this chapter. If a Dietitian Advisory Group is established, the Board shall:*

(a) *Determine the number of members;*

(b) *Appoint the members;*

(c) *Establish the terms of the members; and*

(d) *Determine the duties of the Dietitian Advisory Group.*

2. *Members of a Dietitian Advisory Group established pursuant to subsection 1 serve without compensation.*

Sec. 20. 1. *An applicant for a license to engage in the practice of dietetics in this State must submit to the Board a completed application on a form prescribed by the Board. The application must include, without limitation, written evidence that the applicant:*

(a) *Is 21 years of age or older.*

(b) *Is of good moral character.*

(c) *Has completed a course of study and holds a bachelor's degree or higher in human nutrition, nutrition education, food and nutrition, dietetics, food systems management or an equivalent course of study approved by the Board from a college or university that:*

(1) Was accredited, at the time the degree was received, by a regional accreditation body in the United States which is recognized by the Council for Higher Education Accreditation, or its successor organization, and the United States Department of Education; or

(2) Is located in a foreign country if the application includes the documentation required by section 21 of this act.

(d) Has completed not less than 1,200 hours of training and experience within the United States in the practice of dietetics under the direct supervision of a licensed dietitian, registered dietitian or a person who holds a doctorate degree in human nutrition, nutrition education, food and nutrition, dietetics or food systems management from a college or university that is:

(1) Accredited by a regional accreditation body in the United States which is recognized by the Council for Higher Education Accreditation, or its successor organization, and the United States Department of Education; or

(2) Located in a foreign country if the application includes the documentation required by section 21 of this act.

(e) Has successfully completed the Registration Examination for Dietitians administered by the Commission on Dietetic Registration of the American Dietetic Association.

(f) Meets such other reasonable requirements as prescribed by the Board.

2. Each applicant must remit the applicable fee required pursuant to this chapter with the application for a license to engage in the practice of dietetics in this State.

3. Each applicant shall submit to the Central Repository for Nevada Records of Criminal History two complete sets of fingerprints for submission to the Federal Bureau of Investigation for its report. The Central Repository for Nevada Records of Criminal History shall determine whether the applicant has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.188 and immediately inform the Board of whether the applicant has been convicted of such a crime.

Sec. 21. 1. If an applicant for a license to engage in the practice of dietetics is a graduate of a college or university located in a foreign country, the applicant must include with his or her application a written statement or other proof from the Council for Higher Education Accreditation or its successor organization that the degree is equivalent to a degree issued by a college or university accredited by a regional accreditation body in the United States which is recognized by the Council for Higher Education Accreditation, or its successor organization, and the United States Department of Education.

2. If an applicant for a license to engage in the practice of dietetics completed his or her hours of training and experience under the supervision of a person who holds a doctorate degree conferred by a

college or university located in a foreign country, the applicant must include with his or her application a written statement or other proof from the Council for Higher Education Accreditation or its successor organization that the degree held by the person who supervised the training and experience is equivalent to a degree issued by a college or university accredited by a regional accreditation body in the United States which is recognized by the Council for Higher Education Accreditation, or its successor organization, and the United States Department of Education.

Sec. 22. 1. A person who has the education and experience required by section 20 of this act but who has not passed the examination required for licensure may engage in the practice of dietetics under the direct supervision of a licensed dietitian who is professionally and legally responsible for the applicant's performance.

2. A person shall not engage in the practice of dietetics pursuant to subsection 1 for a period of more than 1 year.

Sec. 23. 1. Upon application and payment of the applicable fee required pursuant to this chapter, the Board may grant a provisional license to engage in the practice of dietetics in this State to an applicant who provides evidence to the Board that the applicant has completed a course of study and holds a bachelor's degree or higher in human nutrition, nutrition education, food and nutrition, dietetics, food systems management or an equivalent course of study approved by the Board from a college or university that:

(a) Was accredited, at the time the degree was received, by a regional accreditation body in the United States which is recognized by the Council for Higher Education Accreditation, or its successor organization, and the United States Department of Education; or

(b) Is located in a foreign country if the application includes the documentation required by section 21 of this act.

2. A provisional license is valid for 1 year after the date of issuance. A provisional license may be renewed for not more than 6 months if the applicant submits evidence satisfactory to the Board for the failure of the applicant to obtain a license to engage in the practice of dietetics during the time the applicant held the provisional license.

3. A person who holds a provisional license may engage in the practice of dietetics only under the supervision of a licensed dietitian.

Sec. 24. 1. Upon application and payment of the applicable fee required pursuant to this chapter, the Board may grant a temporary license to engage in the practice of dietetics in this State to a person who holds a corresponding license in another jurisdiction if:

(a) The corresponding license is in good standing; and

(b) The requirements for licensure in the other jurisdiction are substantially equal to the requirements for licensure in this State.

2. A temporary license may be issued for the limited purpose of authorizing the licensee to treat patients in this State.

3. *A temporary license is valid for the 10-day period designated on the license.*

Sec. 25. (Deleted by amendment.)

Sec. 26. 1. *In addition to any other requirements set forth in this chapter:*

(a) *An applicant for the issuance of a license to engage in the practice of dietetics in this State shall include the social security number of the applicant in the application submitted to the Board.*

(b) *An applicant for the issuance or renewal of a license to engage in the practice of dietetics in this State shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

2. *The Board shall include the statement required pursuant to subsection 1 in:*

(a) *The application or any other forms that must be submitted for the issuance or renewal of the license; or*

(b) *A separate form prescribed by the Board.*

3. *A license to engage in the practice of dietetics may not be issued or renewed by the Board if the applicant:*

(a) *Fails to submit the statement required pursuant to subsection 1; or*

(b) *Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.*

4. *If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.*

Sec. 27. 1. *A licensed dietitian shall provide nutrition services to assist a person in achieving and maintaining proper nourishment and care of his or her body, including, without limitation:*

(a) *Assessing the nutritional needs of a person and determining resources for and constraints in meeting those needs by obtaining, verifying and interpreting data;*

(b) *Determining the metabolism of a person and identifying the food, nutrients and supplements necessary for growth, development, maintenance or attainment of proper nourishment of the person;*

(c) *Considering the cultural background and socioeconomic needs of a person in achieving or maintaining proper nourishment;*

- (d) Identifying and labeling nutritional problems of a person;*
- (e) Recommending the appropriate method of obtaining proper nourishment, including, without limitation, orally, intravenously or through a feeding tube;*
- (f) Providing counseling, advice and assistance concerning health and disease with respect to the nutritional intake of a person;*
- (g) Establishing priorities, goals and objectives that meet the nutritional needs of a person and are consistent with the resources of the person, including, without limitation, providing instruction on meal preparation;*
- (h) Treating nutritional problems of a person and identifying patient outcomes to determine the progress made by the person;*
- (i) Planning activities to change the behavior, risk factors, environmental conditions or other aspects of the health and nutrition of a person, a group of persons or the community at large;*
- (j) Developing, implementing and managing systems to provide care related to nutrition;*
- (k) Evaluating and maintaining appropriate standards of quality in the services provided;*
- (l) Accepting and transmitting verbal and electronic orders from a physician consistent with an established protocol to implement medical nutrition therapy; and*
- (m) Ordering medical laboratory tests relating to the therapeutic treatment concerning the nutritional needs of a patient when authorized to do so by a written protocol prepared or approved by a physician.*

2. A licensed dietitian may use medical nutrition therapy to manage, treat or rehabilitate a disease, illness, injury or medical condition of a patient, including, without limitation:

- (a) Interpreting data and recommending the nutritional needs of the patient through methods such as diet, feeding tube, intravenous solutions or specialized oral feedings;*
- (b) Determining the interaction between food and drugs prescribed to the patient; and*
- (c) Developing and managing operations to provide food, care and treatment programs prescribed by a physician, physician assistant, dentist, advanced practitioner of nursing or podiatric physician that monitor or alter the food and nutrient levels of the patient.*

3. A licensed dietitian shall not provide medical diagnosis of the health of a person.

Sec. 28. (Deleted by amendment.)

Sec. 29. *1. Except as otherwise provided in subsection 2, the Board may waive any requirement of section 20 or 23 of this act for an applicant who proves to the satisfaction of the Board that his or her education and experience are substantially equivalent to the education and experience required by the respective section.*

2. *The Board may waive the requirement of an examination that is set forth in section 20 of this act in accordance with regulations adopted by the Board that prescribe the circumstances under which the Board may waive the requirement of the examination.*

Sec. 30. (Deleted by amendment.)

Sec. 31. 1. *A license to engage in the practice of dietetics expires 2 years after the date of issuance.*

2. *The Board may renew a license if the applicant:*

(a) *Submits a completed written application and the appropriate fee required pursuant to this chapter;*

(b) *Submits documentation of completion of such continuing training and education as required by regulations adopted by the Board;*

(c) *Has not committed any act which is grounds for disciplinary action, unless the Board determines that sufficient restitution has been made or the act was not substantially related to the practice of dietetics;*

(d) *Submits information that the credentials of the applicant are in good standing; and*

(e) *Submits all other information required to complete the renewal.*

3. *The Board shall require a licensed dietitian who fails to submit an application for the renewal of his or her license within 2 years after the date of the expiration of the license to take the examination required by section 20 of this act before renewing the license.*

Sec. 32. *The Board shall act upon an application for a license submitted pursuant to this chapter without unnecessary delay. If an applicant is found qualified, the applicant must be issued a license to engage in the practice of dietetics.*

Sec. 33. 1. *The Board shall adopt regulations establishing reasonable fees for:*

(a) *The examination of an applicant for a license;*

(b) *The issuance of a license;*

(c) *The issuance of a provisional license;*

(d) *The issuance of a temporary license;*

(e) *The renewal of a license;*

(f) *The late renewal of a license;*

(g) *The reinstatement of a license which has been suspended or revoked; and*

(h) *The issuance of a duplicate license or for changing the name on a license.*

2. *The fees established pursuant to subsection 1 must be set in such an amount as to reimburse the Board for the cost of carrying out the provisions of this chapter ~~+~~, except that no such fee may exceed \$250.*

Sec. 34. 1. *The Board may deny, refuse to renew, revoke or suspend any license applied for or issued pursuant to this chapter, or take such other disciplinary action against a licensee as authorized by regulations adopted by the Board, upon determining that the licensee:*

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license pursuant to this chapter.

(b) Is guilty of any offense:

(1) Involving moral turpitude; or

(2) Relating to the qualifications, functions or duties of a licensee.

(c) Uses any controlled substance, dangerous drug as defined in chapter 454 of NRS, or intoxicating liquor to an extent or in a manner which is dangerous or injurious to any other person or which impairs his or her ability to conduct the practice authorized by the license.

(d) Is guilty of unprofessional conduct, which includes, without limitation:

(1) Impersonating an applicant or acting as proxy for an applicant in any examination required pursuant to this chapter for the issuance of a license.

(2) Impersonating another licensed dietitian.

(3) Permitting or allowing another person to use his or her license to engage in the practice of dietetics.

(4) Repeated malpractice, which may be evidenced by claims of malpractice settled against the licensee.

(5) Physical, verbal or psychological abuse of a patient.

(6) Conviction for the use or unlawful possession of a controlled substance or dangerous drug as defined in chapter 454 of NRS.

(e) Has willfully or repeatedly violated any provision of this chapter.

(f) Is guilty of aiding or abetting any person in violating any provision of this chapter.

(g) Has been disciplined in another state in connection with the practice of dietetics or has committed an act in another state which would constitute a violation of this chapter.

(h) Has engaged in conduct likely to deceive, defraud or endanger a patient or the general public.

(i) Has willfully failed to comply with a regulation, subpoena or order of the Board.

2. In addition to any criminal or civil penalty that may be imposed pursuant to this chapter, the Board may assess against and collect from a licensee all costs incurred by the Board in connection with any disciplinary action taken against the licensee, including, without limitation, costs for investigators and stenographers, attorney's fees and other costs of the hearing.

3. For the purposes of this section, a plea or verdict of guilty or guilty but mentally ill or a plea of nolo contendere constitutes a conviction of an offense. The Board may take disciplinary action pending the appeal of a conviction.

Sec. 35. 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and

permits issued to a person who is the holder of a license issued pursuant to this chapter, the Board shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license issued pursuant to this chapter that has been suspended by a district court pursuant to NRS 425.540 if:

(a) The Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560; and

(b) The person whose license was suspended pays the appropriate fee required pursuant to this chapter.

~~Sec. 36. 1. Before suspending or revoking any license or taking other disciplinary action against a licensee, the Board shall cause an administrative complaint to be filed against the licensee. The~~ If any member of the Board or a Dietitian Advisory Group established pursuant to section 19.5 of this act becomes aware of any ground for initiating disciplinary action against a licensee, the member shall file an administrative complaint with the Board.

2. As soon as practical after receiving an administrative complaint, the Board shall ~~notify~~ :

(a) Notify the licensee in writing of the charges against him or her, accompanying the notice with a copy of the administrative complaint ~~if~~ ; and

(b) Forward a copy of the complaint to the Commission on Dietetic Registration of the American Dietetic Association or its successor organization for investigation of the complaint and request a written report of the findings of the investigation or, to the extent money is available to do so, conduct an investigation of the complaint to determine whether the allegations in the complaint merit the initiation of disciplinary proceedings against the licensee.

~~2.~~ 3. Written notice to the licensee may be served by delivering it personally to the licensee, or by mailing it by registered or certified mail to the last known residential address of the licensee.

~~3.~~ 4. If the licensee, after receiving a copy of the administrative complaint pursuant to subsection 1, submits a written request, the Board shall furnish the licensee with a copy of each communication, report and affidavit in the possession of the Board which relates to the matter in question.

~~[4. As soon as practicable after the filing of the administrative complaint.]~~

5. If, after an investigation conducted by the Board or receiving the findings from an investigation of the complaint from the Commission on Dietetic Registration of the American Dietetic Association or its successor organization, the Board determines that the administrative complaint is valid, the Board shall hold a hearing on the charges at such time and place as the Board prescribes. If the Board receives a report pursuant to subsection 5 of NRS 228.420, the hearing must be held within 30 days after receiving the report. If requested by the licensee, the hearing must be held within the county in which the licensee resides.

Sec. 37. The Board may delegate its authority to conduct hearings pursuant to section 36 of this act concerning the discipline of a licensee to a hearing officer. The hearing officer has the powers of the Board in connection with such hearings, and shall report to the Board his or her findings of fact and conclusions of law within 30 days after the final hearing on the matter. The Board may take action based upon the report of the hearing officer, refer the matter to the hearing officer for further hearings or conduct its own hearings on the matter.

Sec. 38. The Board may:

1. Issue subpoenas for the attendance of witnesses and the production of books, papers and documents; and

2. Administer oaths when taking testimony in any matter relating to the duties of the Board. ~~]; and~~

~~3. Adopt a seal which must be judicially noticed by the courts of this State.]~~

Sec. 39. 1. The district court in and for the county in which any hearing is held by the Board may compel the attendance of witnesses, the giving of testimony and the production of books, papers and documents as required by any subpoena issued by the Board.

2. In case of the refusal of any witness to attend or testify or produce any books, papers or documents required by a subpoena, the Board may report to the district court in and for the county in which the hearing is pending, by petition setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of books, papers or documents;

(b) That the witness has been subpoenaed in the manner prescribed by this chapter; and

(c) That the witness has failed and refused to attend or produce the books, papers or documents required by the subpoena before the Board in the cause or proceeding named in the subpoena, or has refused to answer questions propounded to him or her in the course of the hearing,

↳ and ask an order of the court compelling the witness to attend and testify or produce the books, papers or documents before the Board.

3. *The court, upon petition of the Board, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in the order, the time to be not more than 10 days after the date of the order, to show cause why the witness has not attended or testified or produced the books, papers or documents before the Board. A certified copy of the order must be served upon the witness.*

4. *If it appears to the court that the subpoena was regularly issued by the Board, the court shall enter an order that the witness appear before the Board at the time and place fixed in the order and testify or produce the required books, papers or documents. Upon failure to obey the order, the witness must be dealt with as for contempt of court.*

Sec. 40. 1. *The Board shall render a decision on any administrative complaint within 60 days after the final hearing thereon. For the purposes of this subsection, the final hearing on a matter delegated to a hearing officer pursuant to section 37 of this act is the final hearing conducted by the hearing officer unless the Board conducts a hearing with regard to the administrative complaint.*

2. *The Board shall notify the licensee of its decision in writing by certified mail, return receipt requested. The decision of the Board becomes effective on the date the licensee receives the notice or on the date the Board receives a notice from the United States Postal Service stating that the licensee refused to accept delivery or could not be located.*

Sec. 41. (Deleted by amendment.)

Sec. 42. 1. *Any licensee whose license ~~was~~ is revoked by the Board may apply for reinstatement of the license pursuant to ~~the provisions of chapter 622.4 of NRS.~~*

~~2. *In addition to the requirements for reinstatement of the license pursuant to chapter 622.4 of NRS, the* regulations adopted by the Board.~~

2. *The Board may reinstate the license upon compliance by the licensee with all requirements for reinstatement established by regulations adopted by the Board and payment of the applicable fee required pursuant to this chapter.*

Sec. 43. 1. *Except as otherwise provided in this section and NRS 239.0115, any records or information obtained during the course of an investigation by the Board and any record of the investigation are confidential.*

2. *Any complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose disciplinary action are public records.*

3. *This section does not prevent or prohibit the Board from communicating or cooperating with another licensing board or any agency that is investigating a licensee, including a law enforcement agency.*

Sec. 44. *If the Board, based on evidence satisfactory to it, believes that any person has violated or is about to violate any provision of this chapter,*

the terms of any license, or any order, decision, demand or requirement, or any part thereof, the Board may bring an action, in the name of the Board, in the district court in and for the county in which the person resides, against the person to enjoin the person from continuing the violation or engaging in any act that constitutes such a violation. The court may enter an order or judgment granting such injunctive relief as it determines proper, but no such injunctive relief may be granted without at least 5 days' notice to the opposite party.

Sec. 45. *If a person is not licensed to engage in the practice of dietetics pursuant to this chapter, or if a person's license to engage in the practice of dietetics has been suspended or revoked by the Board, the person shall not:*

- 1. Engage in the practice of dietetics;*
- 2. Use in connection with his or her name the words or letters "L.D.," "licensed dietitian," ~~"L.N.," "licensed nutritionist,"~~ or any other letters, words or insignia indicating or implying that he or she is licensed to engage in the practice of dietetics, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "dietetics" ~~for "nutritionist"~~ or represent himself or herself as licensed or qualified to engage in the practice of dietetics in this State; or*
- 3. List or cause to have listed in any directory, including, without limitation, a telephone directory, his or her name or the name of his or her company under the heading "Dietitian" ~~for "Nutritionist"~~ or any other term that indicates or implies that he or she is licensed or qualified to engage in the practice of dietetics in this State.*

Sec. 46. 1. *A person who violates any provision of this chapter or any regulation adopted pursuant thereto is guilty of a misdemeanor.*

2. In addition to any criminal penalty that may be imposed pursuant to subsection 1, the Board may, after notice and hearing, impose a civil penalty of not more than \$100 for each such violation. For the purposes of this subsection, each day on which a violation occurs constitutes a separate offense, except that the aggregate civil penalty that may be imposed against a person pursuant to this subsection may not exceed \$10,000.

Sec. 47. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by a specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, physician assistant, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor, athletic trainer, perfusionist, doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist, **licensed dietitian** or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 48. NRS 7.095 is hereby amended to read as follows:

7.095 1. An attorney shall not contract for or collect a fee contingent on the amount of recovery for representing a person seeking damages in connection with an action for injury or death against a provider of health care based upon professional negligence in excess of:

- (a) Forty percent of the first \$50,000 recovered;
- (b) Thirty-three and one-third percent of the next \$50,000 recovered;
- (c) Twenty-five percent of the next \$500,000 recovered; and
- (d) Fifteen percent of the amount of recovery that exceeds \$600,000.

2. The limitations set forth in subsection 1 apply to all forms of recovery, including, without limitation, settlement, arbitration and judgment.

3. For the purposes of this section, "recovered" means the net sum recovered by the plaintiff after deducting any disbursements or costs incurred in connection with the prosecution or settlement of the claim. Costs of medical care incurred by the plaintiff and general and administrative expenses incurred by the office of the attorney are not deductible disbursements or costs.

4. As used in this section:

(a) "Professional negligence" means a negligent act or omission to act by a provider of health care in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death. The term does not include services that are outside the scope of services for which the provider of health care is licensed or services for which any restriction has been imposed by the applicable regulatory board or health care facility.

(b) "Provider of health care" means a physician licensed under chapter 630 or 633 of NRS, dentist, registered nurse, dispensing optician, optometrist, registered physical therapist, podiatric physician, licensed psychologist, chiropractor, doctor of Oriental medicine, medical laboratory director or technician, *licensed dietitian* or a licensed hospital and its employees.

Sec. 49. NRS 41A.017 is hereby amended to read as follows:

41A.017 "Provider of health care" means a physician licensed under chapter 630 or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, registered physical therapist, podiatric physician, licensed psychologist, chiropractor, doctor of Oriental medicine, medical laboratory director or technician, *licensed dietitian* or a licensed hospital and its employees.

Sec. 50. NRS 42.021 is hereby amended to read as follows:

42.021 1. In an action for injury or death against a provider of health care based upon professional negligence, if the defendant so elects, the defendant may introduce evidence of any amount payable as a benefit to the plaintiff as a result of the injury or death pursuant to the United States Social Security Act, any state or federal income disability or worker's compensation act, any health, sickness or income-disability insurance, accident insurance that provides health benefits or income-disability coverage, and any contract

or agreement of any group, organization, partnership or corporation to provide, pay for or reimburse the cost of medical, hospital, dental or other health care services. If the defendant elects to introduce such evidence, the plaintiff may introduce evidence of any amount that the plaintiff has paid or contributed to secure the plaintiff's right to any insurance benefits concerning which the defendant has introduced evidence.

2. A source of collateral benefits introduced pursuant to subsection 1 may not:

- (a) Recover any amount against the plaintiff; or
- (b) Be subrogated to the rights of the plaintiff against a defendant.

3. In an action for injury or death against a provider of health care based upon professional negligence, a district court shall, at the request of either party, enter a judgment ordering that money damages or its equivalent for future damages of the judgment creditor be paid in whole or in part by periodic payments rather than by a lump-sum payment if the award equals or exceeds \$50,000 in future damages.

4. In entering a judgment ordering the payment of future damages by periodic payments pursuant to subsection 3, the court shall make a specific finding as to the dollar amount of periodic payments that will compensate the judgment creditor for such future damages. As a condition to authorizing periodic payments of future damages, the court shall require a judgment debtor who is not adequately insured to post security adequate to assure full payment of such damages awarded by the judgment. Upon termination of periodic payments of future damages, the court shall order the return of this security, or so much as remains, to the judgment debtor.

5. A judgment ordering the payment of future damages by periodic payments entered pursuant to subsection 3 must specify the recipient or recipients of the payments, the dollar amount of the payments, the interval between payments, and the number of payments or the period of time over which payments will be made. Such payments must only be subject to modification in the event of the death of the judgment creditor. Money damages awarded for loss of future earnings must not be reduced or payments terminated by reason of the death of the judgment creditor, but must be paid to persons to whom the judgment creditor owed a duty of support, as provided by law, immediately before the judgment creditor's death. In such cases, the court that rendered the original judgment may, upon petition of any party in interest, modify the judgment to award and apportion the unpaid future damages in accordance with this subsection.

6. If the court finds that the judgment debtor has exhibited a continuing pattern of failing to make the periodic payments as specified pursuant to subsection 5, the court shall find the judgment debtor in contempt of court and, in addition to the required periodic payments, shall order the judgment debtor to pay the judgment creditor all damages caused by the failure to make such periodic payments, including, but not limited to, court costs and attorney's fees.

7. Following the occurrence or expiration of all obligations specified in the periodic payment judgment, any obligation of the judgment debtor to make further payments ceases and any security given pursuant to subsection 4 reverts to the judgment debtor.

8. As used in this section:

(a) "Future damages" includes damages for future medical treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and suffering of the judgment creditor.

(b) "Periodic payments" means the payment of money or delivery of other property to the judgment creditor at regular intervals.

(c) "Professional negligence" means a negligent act or omission to act by a provider of health care in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death. The term does not include services that are outside the scope of services for which the provider of health care is licensed or services for which any restriction has been imposed by the applicable regulatory board or health care facility.

(d) "Provider of health care" means a physician licensed under chapter 630 or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, registered physical therapist, podiatric physician, licensed psychologist, chiropractor, doctor of Oriental medicine, medical laboratory director or technician, *licensed dietitian* or a licensed hospital and its employees.

Sec. 51. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means:

(1) Unlawfully attempting to use physical force against another person;

or

(2) Intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require the employee to make home visits.

(c) "Provider of health care" means a physician, a perfusionist or a physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician

assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern, **a licensed dietitian** and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator

or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

Sec. 52. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging and Disability Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging and Disability Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging and Disability Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, perfusionist, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician, *licensed dietitian* or other person providing medical services licensed or certified to practice in this State, who

examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 427A.0291.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his or her written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging and Disability Services Division of the Department of Health and Human Services, must be forwarded within 30 days after the completion of the report to the:

(a) Aging and Disability Services Division;

(b) Repository for Information Concerning Crimes Against Older Persons created by NRS 179A.450; and

(c) Unit for the Investigation and Prosecution of Crimes.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging and Disability Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if the older person is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 53. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, perfusionist, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician, *licensed dietitian* or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon

notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his or her written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 54. NRS 200.5095 is hereby amended to read as follows:

200.5095 1. Reports made pursuant to NRS 200.5093, 200.50935 and 200.5094, and records and investigations relating to those reports, are confidential.

2. A person, law enforcement agency or public or private agency, institution or facility who willfully releases data or information concerning the reports and investigation of the abuse, neglect, exploitation or isolation of older persons or vulnerable persons, except:

(a) Pursuant to a criminal prosecution;

(b) Pursuant to NRS 200.50982; or

(c) To persons or agencies enumerated in subsection 3,

↪ is guilty of a misdemeanor.

3. Except as otherwise provided in subsection 2 and NRS 200.50982, data or information concerning the reports and investigations of the abuse,

neglect, exploitation or isolation of an older person or a vulnerable person is available only to:

- (a) A physician who is providing care to an older person or a vulnerable person who may have been abused, neglected, exploited or isolated;
- (b) An agency responsible for or authorized to undertake the care, treatment and supervision of the older person or vulnerable person;
- (c) A district attorney or other law enforcement official who requires the information in connection with an investigation of the abuse, neglect, exploitation or isolation of the older person or vulnerable person;
- (d) A court which has determined, in camera, that public disclosure of such information is necessary for the determination of an issue before it;
- (e) A person engaged in bona fide research, but the identity of the subjects of the report must remain confidential;
- (f) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;
- (g) Any comparable authorized person or agency in another jurisdiction;
- (h) A legal guardian of the older person or vulnerable person, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the legal guardian of the older person or vulnerable person is not the person suspected of such abuse, neglect, exploitation or isolation;
- (i) If the older person or vulnerable person is deceased, the executor or administrator of his or her estate, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the executor or administrator is not the person suspected of such abuse, neglect, exploitation or isolation; or
- (j) The older person or vulnerable person named in the report as allegedly being abused, neglected, exploited or isolated, if that person is not legally incompetent.

4. If the person who is reported to have abused, neglected, exploited or isolated an older person or a vulnerable person is the holder of a license or certificate issued pursuant to chapters 449, 630 to 641B, inclusive, or 654 of NRS, *or sections 1.5 to 46, inclusive, of this act, the* information contained in the report must be submitted to the board that issued the license.

Sec. 55. (Deleted by amendment.)

Sec. 56. (Deleted by amendment.)

Sec. 57. (Deleted by amendment.)

Sec. 58. NRS 372.7285 is hereby amended to read as follows:

372.7285 1. In administering the provisions of NRS 372.325, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his or her scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, perfusionist, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor, *licensed dietitian* or doctor of Oriental medicine in any form.

Sec. 59. NRS 374.731 is hereby amended to read as follows:

374.731 1. In administering the provisions of NRS 374.330, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his or her scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, perfusionist, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered

physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor, *licensed dietitian* or doctor of Oriental medicine in any form.

Sec. 60. NRS 442.003 is hereby amended to read as follows:

442.003 As used in this chapter, unless the context requires otherwise:

1. "Advisory Board" means the Advisory Board on Maternal and Child Health.

2. "Department" means the Department of Health and Human Services.

3. "Director" means the Director of the Department.

4. "Fetal alcohol syndrome" includes fetal alcohol effects.

5. "Health Division" means the Health Division of the Department.

6. "Obstetric center" has the meaning ascribed to it in NRS 449.0155.

7. "Provider of health care or other services" means:

(a) A clinical alcohol and drug abuse counselor who is licensed, or an alcohol and drug abuse counselor who is licensed or certified, pursuant to chapter 641C of NRS;

(b) A physician or a physician assistant who is licensed pursuant to chapter 630 or 633 of NRS and who practices in the area of obstetrics and gynecology, family practice, internal medicine, pediatrics or psychiatry;

(c) A licensed nurse;

(d) A licensed psychologist;

(e) A licensed marriage and family therapist;

(f) A licensed clinical professional counselor;

(g) A licensed social worker; ~~or~~

(h) *A licensed dietitian; or*

(i) The holder of a certificate of registration as a pharmacist.

Sec. 61. NRS 608.0116 is hereby amended to read as follows:

608.0116 "Professional" means pertaining to an employee who is licensed or certified by the State of Nevada for and engaged in the practice of law or any of the professions regulated by chapters 623 to 645, inclusive, 645G and 656A of NRS ~~and~~ **and sections 1.5 to 46, inclusive, of this act.**

Sec. 62. Section 26 of this act is hereby amended to read as follows:

Sec. 26. 1. In addition to any other requirements set forth in this chapter ~~and~~:

~~(a) An applicant for the issuance of a license to engage in the practice of dietetics in this State shall include the social security number of the applicant in the application submitted to the Board.~~

~~(b) An~~, **an** applicant for the issuance or renewal of a license to engage in the practice of dietetics in this State shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license to engage in the practice of dietetics may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 63. (Deleted by amendment.)

Sec. 63.5. Except for the suspension of a license pursuant to section 35 of this act, no disciplinary action may be initiated, investigated or imposed pursuant to sections 1.5 to 46, inclusive, of this act before July 1, 2013.

Sec. 64. Notwithstanding the provisions of section 20 of this act, the State Board of ~~Dietetics~~ **Health** shall grant a license to engage in the practice of dietetics in this state without examination to a person who:

1. Was engaged in the practice of dietetics in this State on or before January 1, 2012;

2. Submits an application for a license to the Board on or before January 1, 2013; and

3. Presents proof that the person:

(a) Is a registered dietitian; or

(b) Meets the education and experience requirements set forth in section 20 of this act.

Sec. 65. 1. This section and sections 11 and 63 of this act become effective upon passage and approval.

2. Sections 1 to 10, inclusive, 12 to 61, inclusive, ~~63.5~~ and 64 of this act become effective on July 1, 2011, for the purpose of adopting regulations and carrying out any other administrative tasks, and on January 1, 2012, for all other purposes.

3. Section 62 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,
→ are repealed by the Congress of the United States.

4. Sections 35 and 62 of this act expire by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,
→ are repealed by the Congress of the United States.

Senator Schneider moved the adoption of the amendment.

Remarks by Senators Schneider and McGinness.

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

SENATOR SCHNEIDER:

Amendment No. 709 to Assembly Bill No. 289 provides for the licensure of dieticians by the State Board of Health instead of creating a new State Board of Dieticians.

The amendment further clarifies persons who are not covered by the bill, such as occupational therapists, massage therapists and persons who provide recommendations or advice concerning nutrition.

SENATOR MCGINNESS:

Thank you, Mr. President. On page 4, line 32, "person who furnishes nutrition information, provides recommendations or advice concerning nutrition." I have had some concerns from health food stores. Are they in this bill or out of it?

SENATOR SCHNEIDER:

Thank you, Mr. President. We went through the bill with a fine-tooth comb. We have taken everyone out of this bill. The health food store is gone.

Amendment adopted.

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

Assembly Bill No. 291.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 678.

"SUMMARY—Makes certain agreements between heir finders and apparent heirs relating to the recovery of property in an estate void and unenforceable under certain circumstances. (BDR 12-306)"

"AN ACT relating to estates; making certain agreements between an heir finder and an apparent heir relating to the recovery of property in an estate void and unenforceable under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill provides that an agreement between an heir finder and an apparent heir relating to the recovery of property in an estate for which the public administrator petitioned for letters of administration is void and unenforceable if the agreement is entered into during the period beginning with the death of the person whose estate is in probate until ~~16 months~~ **90 days** thereafter.

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

Section 1. Chapter 139 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. An agreement between an heir finder and an apparent heir, the primary purpose of which is to locate, recover or assist in the recovery of an estate for which the public administrator has petitioned for letters of administration, is void and unenforceable if the agreement is entered into during the period beginning with the death of the person whose estate is in probate until ~~16 months~~ **90 days** thereafter.*

2. As used in this section, "heir finder" means a person who, for payment of a fee, assignment of a portion of any interest in a decedent's estate or other consideration, provides information, assistance, forensic genealogy research or other efforts related to another person's right to or interest in a decedent's estate. The term does not include:

(a) A person acting in the capacity of a personal representative or guardian ad litem;

(b) A person appointed to perform services by a probate court in which a proceeding in connection with a decedent's estate is pending; or

(c) An attorney providing legal services to a decedent's family member if the attorney has not agreed to pay to any other person a portion of the fees received from the family member or the family member's interest in the decedent's estate.

Sec. 2. The provisions of this act apply to agreements described in section 1 of this act that are entered into 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.

The amendment changes from 6 months to 90 days the period of time in which an heir finder may not enter into an agreement with an apparent heir concerning an estate that is in probate.

Amendment adopted.

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

Assembly Bill No. 301.

Bill read second time.

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

Amendment No. 688.

"SUMMARY—Revises provisions governing the restoration of civil rights for ex-felons. (BDR 16-687)"

"AN ACT relating to civil rights; revising provisions governing the restoration of the right to vote to persons who have been convicted of a felony; revising provisions governing the registration to vote of a person convicted of a felony; revising provisions governing the cancellation of the registration to vote of a person convicted of a felony; revising provisions governing a challenge to the right to vote of a person convicted of a felony; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a county clerk to cancel the registration to vote of a person who has been convicted of a felony unless the person's right to vote has been restored: (1) under the laws of this State; or (2) if the conviction occurred in another state, under the laws of that state. (NRS 293.540) Under existing law, unless a person has been convicted of certain specified felonies, a person who has been convicted of a felony is restored to the right to vote upon: (1) an honorable discharge from probation; (2) the sealing of his or her records by a court; (3) the granting of a pardon ~~with the restoration of the right to vote;~~ (4) an honorable discharge from parole; or (5) being released from prison because of the expiration of his or her sentence. (NRS 176A.850, 179.285, 213.090, 213.155, 213.157) **Sections 4, 5 and 7** of this bill remove all exceptions to the restoration of the right to vote of a person convicted of a felony so that any person convicted of a felony in this State is restored to the right to vote upon: (1) an honorable discharge from probation; (2) the sealing of his or her records by a court; (3) the granting of a pardon ~~with the restoration of the right to vote;~~ (4) an honorable discharge from parole; or (5) the completion of his or her sentence and release from prison.

Sections 10-15 of this bill revise provisions relating to voter registration. Under existing law, the civil right to vote of a person who is resident of this State and who has been convicted of a felony in another state is determined by the law of that other state. (NRS 293.540) **Section 10.3** of this bill provides that a resident of this State who was convicted of a felony in another state is restored to the right to vote in this State if he or she: (1) has been

released from prison because of the expiration of his or her sentence; (2) has received a discharge from probation or parole which is not a dishonorable discharge; or (3) has received a pardon, or an order from a court of competent jurisdiction, which restores the person's civil right to vote. **Section 10.5** of this bill prohibits a county clerk from requiring a person seeking to register to vote to present documentation indicating that the person's right to vote has been restored following a conviction for a felony ~~under the laws of~~ **in** this State or another state. **Section 10.7** of this bill provides for an appeal to the Secretary of State and the district court if the county clerk cancels the voter registration of, or refuses to register, a person on the ground that the person is ineligible to vote because the person: (1) has been convicted of a felony ~~under the laws of~~ **in** this State or another state; and (2) has not had his or her civil right to vote restored. **Section 12** revises the procedures to be followed by a county clerk upon a determination based on specific evidence that a person is ineligible to vote because the person: (1) has been convicted of a felony ~~under the laws of~~ **in** this State or another state; and (2) has not had his or her civil right to vote restored. **Section 13** revises the procedure for reregistering a person to vote after a cancellation of the person's right to vote because of a felony conviction. **Section 14** revises the procedures to be followed by a county clerk, district attorney or court upon a receipt of a challenge providing that a person is ineligible to vote because the person: (1) has been convicted of a felony ~~under the laws of~~ **in** this State or another state; and (2) has not had his or her civil right to vote restored.

Section 16 of this bill specifies that the civil right to vote is restored to residents of this State who: (1) have not had their right to vote restored; (2) are not on probation or parole or serving a sentence of imprisonment on July 1, 2011; and (3) before July 1, 2011, were honorably discharged from probation or parole, pardoned with the restoration of the right to vote or released from prison after serving their sentences. Section 16 further provides that notification to such persons of the restoration of the civil right to vote is not required.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 213.155 is hereby amended to read as follows:

213.155 1. ~~Except as otherwise provided in subsection 2, a~~ A person who receives an honorable discharge from parole pursuant to NRS 213.154:

(a) Is immediately restored to the ~~following~~ civil ~~rights~~:

~~(1) The~~ right to vote. ~~[- and~~

~~(2) The~~

(b) Except as otherwise provided in subsection 2:

(1) Is immediately restored to the right to serve as a juror in a civil action.

~~[(b)]~~ *(2)* Four years after the date of his or her honorable discharge from parole, is restored to the right to hold office.

~~[(e)]~~ *(3)* Six years after the date of his or her honorable discharge from parole, is restored to the right to serve as a juror in a criminal action.

2. Except as otherwise provided in this subsection, the civil rights set forth in *paragraph (b) of* subsection 1 are not restored to a person who has received an honorable discharge from parole if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of his or her honorable discharge from parole.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his or her honorable discharge from parole.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

↪ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of his or her civil rights as set forth in *paragraph (b) of* subsection 1.

3. ~~Except for a person subject to the limitations set forth in subsection 2, upon~~ *Upon* his or her honorable discharge from parole, a person so discharged must be given an official document which provides:

(a) That the person has received an honorable discharge from parole;

(b) That the person has been restored to his or her civil ~~rights~~ *right* to vote ~~and~~ *as of the date of his or her honorable discharge from parole;* ~~and~~

(c) If the person is not subject to the limitations set forth in subsection 2:

(1) That the person has been restored to his or her civil right to serve as a juror in a civil action as of the date of his or her honorable discharge from parole;

~~[(e)]~~ *(2)* The date on which his or her civil right to hold office will be restored to the person pursuant to *subparagraph (2) of* paragraph (b) of subsection 1; and

~~[(d)]~~ *(3)* The date on which his or her civil right to serve as a juror in a criminal action will be restored to the person pursuant to *subparagraph (3) of* paragraph ~~[(e)]~~ *(b)* of subsection 1.

4. Subject to the limitations set forth in subsection 2, a person who has been honorably discharged from parole in this State or elsewhere and whose

official documentation of his or her honorable discharge from parole is lost, damaged or destroyed may file a written request with ~~the court of competent jurisdiction to restore~~ **the district court in and for the county in which the person resides for the issuance of an order declaring that** his or her civil rights **have been restored** pursuant to this section. Upon verification that the person has been honorably discharged from parole and is eligible to be restored to **any of** the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights ~~set forth in~~ **to which the person is entitled to be restored pursuant to subsection 1, this section.** A person must not be required to pay a fee to receive such an order.

5. A person who has been honorably discharged from parole in this State or elsewhere may present:

(a) Official documentation of his or her honorable discharge from parole, if it contains the provisions set forth in subsection 3; or

(b) A court order restoring his or her civil rights,
 ↪ as proof that the person has been restored to **any of** the civil rights set forth in ~~subsection 1,~~ **this section.**

6. The Board may adopt regulations necessary or convenient for the purposes of this section.

Sec. 5. NRS 213.157 is hereby amended to read as follows:

213.157 1. ~~Except as otherwise provided in subsection 2, a~~ A person convicted of a felony in the State of Nevada who has ~~served~~ **completed** his or her sentence and has been released from prison:

(a) Is immediately restored to the ~~following~~ civil ~~rights:~~

~~—(1) The~~ right to vote. ~~;~~ and

~~—(2) The~~

(b) **Except as otherwise provided in subsection 2:**

(1) **Is immediately restored to the** right to serve as a juror in a civil action.

~~+(b)~~ (2) Four years after the date of his or her release from prison, is restored to the right to hold office.

~~+(c)~~ (3) Six years after the date of his or her release from prison, is restored to the right to serve as a juror in a criminal action.

2. Except as otherwise provided in this subsection, the civil rights set forth in **paragraph (b) of** subsection 1 are not restored to a person who has been released from prison if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of his or her release from prison.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his or her release from prison.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

↪ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of his or her civil rights as set forth in **paragraph (b) of** subsection 1.

3. ~~Except for a person subject to the limitations set forth in subsection 2, upon~~ **Upon** his or her release from prison, a person so released must be given an official document which provides:

(a) That the person has been released from prison;

(b) That the person has been restored to his or her civil ~~rights~~ **right** to vote ~~and~~ **as of the date of his or her release from prison; and**

(c) **If the person is not subject to the limitations set forth in subsection 2:**

(1) **That the person has been restored to his or her civil right** to serve as a juror in a civil action as of the date of his or her release from prison;

~~(e)~~ (2) The date on which his or her civil right to hold office will be restored to the person pursuant to **subparagraph (2) of** paragraph (b) of subsection 1; and

~~(d)~~ (3) The date on which his or her civil right to serve as a juror in a criminal action will be restored to the person pursuant to **subparagraph (3) of** paragraph ~~(e)~~ (b) of subsection 1.

4. Subject to the limitations set forth in subsection 2, a person who has **completed his or her sentence and has** been released from prison in this State or elsewhere and whose official documentation of his or her release from prison is lost, damaged or destroyed may file a written request with ~~a court of competent jurisdiction to restore~~ **the district court in and for the county in which the person resides for the issuance of an order declaring that** his or her civil rights **have been restored** pursuant to this section. Upon verification that the person has **completed his or her sentence, has** been released from prison and is eligible to be restored to **any of** the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights ~~set forth in~~ **to which the person is entitled to be restored pursuant to** ~~subsection 1.~~ **this section.** A person must not be required to pay a fee to receive such an order.

5. A person who has **completed his or her sentence and has** been released from prison in this State or elsewhere may present:

(a) Official documentation of his or her **completion of sentence and** release from prison, if it contains the provisions set forth in subsection 3; or

(b) A court order restoring his or her civil rights,

↪ as proof that the person has been restored to **any of** the civil rights set forth in ~~subsection 1.~~ **this section.**

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 176A.850 is hereby amended to read as follows:

176A.850 1. A person who:

(a) Has fulfilled the conditions of probation for the entire period thereof;
 (b) Is recommended for earlier discharge by the Division; or
 (c) Has demonstrated fitness for honorable discharge but because of economic hardship, verified by the Division, has been unable to make restitution as ordered by the court,
 ↪ may be granted an honorable discharge from probation by order of the court.

2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of discharge.

3. ~~Except as otherwise provided in subsection 4, a~~ A person who has been honorably discharged from probation:

- (a) Is free from the terms and conditions of probation.
 (b) Is immediately restored to the ~~following~~ civil ~~rights~~:

~~(1) The~~ right to vote . ~~;~~ and
~~(2) The~~

(c) Except as otherwise provided in subsection 4:

(1) Is immediately restored to the right to serve as a juror in a civil action.

~~(e)~~ *(2)* Four years after the date of honorable discharge from probation, is restored to the right to hold office.

~~(d)~~ *(3)* Six years after the date of honorable discharge from probation, is restored to the right to serve as a juror in a criminal action.

~~(e)~~ *(d)* If the person meets the requirements of NRS 179.245, may apply to the court for the sealing of records relating to the conviction.

~~(f)~~ *(e)* Must be informed of the provisions of this section and NRS 179.245 in the person's probation papers.

~~(g)~~ *(f)* Is exempt from the requirements of chapter 179C of NRS, but is not exempt from the requirements of chapter 179D of NRS.

~~(h)~~ *(g)* Shall disclose the conviction to a gaming establishment and to the State and its agencies, departments, boards, commissions and political subdivisions, if required in an application for employment, license or other permit. As used in this paragraph, "establishment" has the meaning ascribed to it in NRS 463.0148.

~~(i)~~ *(h)* Except as otherwise provided in paragraph ~~(h)~~, *(g)*, need not disclose the conviction to an employer or prospective employer.

4. Except as otherwise provided in this subsection, the civil rights set forth in *paragraph (c) of* subsection 3 are not restored to a person honorably discharged from probation if the person has previously been convicted in this State:

- (a) Of a category A felony.
 (b) Of an offense that would constitute a category A felony if committed as of the date of the honorable discharge from probation.
 (c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of honorable discharge from probation.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

↪ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of civil rights as set forth in **paragraph (c) of subsection 3**.

5. The prior conviction of a person who has been honorably discharged from probation may be used for purposes of impeachment. In any subsequent prosecution of the person, the prior conviction may be pleaded and proved if otherwise admissible.

6. ~~Except for a person subject to the limitations set forth in subsection 4, upon~~ **Upon** honorable discharge from probation, the person so discharged must be given an official document which provides:

(a) That the person has received an honorable discharge from probation;

(b) That the person has been restored to his or her civil ~~rights~~ **right** to vote ~~and~~ **as of the date of honorable discharge from probation; and**

(c) If the person is not subject to the limitations set forth in subsection 4:

(1) That the person has been restored to his or her civil right to serve as a juror in a civil action as of the date of honorable discharge from probation;

~~(e)~~ **(2)** The date on which the person's civil right to hold office will be restored pursuant to **subparagraph (2) of paragraph (c) of subsection 3**; and

~~(d)~~ **(3)** The date on which the person's civil right to serve as a juror in a criminal action will be restored pursuant to **subparagraph (3) of paragraph (c) of subsection 3**.

7. Subject to the limitations set forth in subsection 4, a person who has been honorably discharged from probation in this State or elsewhere and whose official documentation of honorable discharge from probation is lost, damaged or destroyed may file a written request with ~~a court of competent jurisdiction to restore the person's~~ **the district court in and for the county in which the person resides for the issuance of an order declaring that his or her civil rights have been restored** pursuant to this section. Upon verification that the person has been honorably discharged from probation and is eligible to be restored to **any of** the civil rights set forth in subsection 3, the court shall issue an order restoring the person to the civil rights ~~set forth in~~ **to which the person is entitled to be restored pursuant to subsection 3. this section**. A person must not be required to pay a fee to receive such an order.

8. A person who has been honorably discharged from probation in this State or elsewhere may present:

(a) Official documentation of honorable discharge from probation, if it contains the provisions set forth in subsection 6; or

(b) A court order restoring the person's civil rights,
 ↪ as proof that the person has been restored to *any of* the civil rights set forth in ~~subsection 3~~ *this section*.

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 10.3, 10.5 and 10.7 of this act.

Sec. 10.3. *A person who is a resident of this State and who has been convicted of a felony ~~under the law of~~ in another state is restored to the civil right to vote in this State if the person:*

1. *Has been released from prison because of the completion of his or her sentence;*

2. *Has received a discharge from probation or parole which is not a dishonorable discharge or the equivalent thereof; or*

3. *Has received a pardon or an order from a court of competent jurisdiction which restores his or her civil right to vote.*

Sec. 10.5. *A county clerk shall not ask or require a person seeking to register to vote to present:*

1. *A court order indicating that the person's civil right to vote has been restored following a conviction for a felony ~~under the laws of~~ in this State or another state; or*

2. *Any other documentation indicating that the person's civil right to vote has been restored following a conviction for a felony ~~under the laws of~~ in this State or another state.*

Sec. 10.7. 1. *If a county clerk cancels the registration of a registrant pursuant to subsection 3 of NRS 293.540 or refuses to reregister an elector for a reason stated in subsection 2 of NRS 293.543, the registrant or elector may appeal to the Secretary of State by providing to the Secretary of State written notice of the appeal and any relevant evidence, which may include, without limitation, an affirmation under penalty of perjury that the registrant or elector is a lawful resident of this State and:*

(a) *Has never been convicted of a felony ~~under the laws of~~ in this State or another state; or*

(b) *Has been convicted of a felony ~~under the laws of~~ in this State but has been restored to the civil right to vote pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or has been convicted of a felony ~~under the laws of~~ in another state but has been restored to the civil right to vote in this State pursuant to the provisions of section 10.3 of this act.*

2. *If the Secretary of State receives relevant evidence pursuant to subsection 1 and no other evidence exists to support the cancellation of the registration of the appellant or the refusal to reregister the appellant, the Secretary of State must issue an order that the appellant be registered to vote in the county of which the appellant is a resident.*

3. *If:*

(a) The cancellation of the registration or refusal to reregister occurred more than 60 days before the date of any election and the Secretary of State does not issue an order pursuant to subsection 2 within 60 days after receipt of a notice of appeal and relevant evidence pursuant to subsection 1; or

(b) The cancellation of the registration or refusal to reregister occurred 60 days or less before the date of any election and the Secretary of State does not issue an order pursuant to subsection 2 within 40 days after receipt of a notice of appeal and relevant evidence pursuant to subsection 1,

↳ the registrant or elector who filed the appeal with the Secretary of State may bring a civil action for declaratory or injunctive relief in the district court in and for the county where the registrant or elector resides. The court shall give the civil action priority over other civil matters to which priority is not given by other provisions of NRS.

4. If, within 30 days before any election, a county clerk cancels the registration of a registrant pursuant to subsection 3 of NRS 293.540 or refuses to reregister an elector for a reason stated in subsection 2 of NRS 293.543, the registrant or elector may, without submitting an appeal to the Secretary of State pursuant to subsection 1, bring a civil action for declaratory or injunctive relief in the district court in and for the county where the registrant or elector resides. The court shall give the civil action priority over other civil matters to which priority is not given by other provisions of NRS.

Sec. 11. NRS 293.177 is hereby amended to read as follows:

293.177 1. Except as otherwise provided in NRS 293.165, a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than:

(a) For a candidate for judicial office, the first Monday in January of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in January; and

(b) For all other candidates, the first Monday in March of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in March.

2. A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:

(a) For partisan office:

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

County of

For the purpose of having my name placed on the official ballot as a candidate for the Party nomination for the office of, I, the undersigned, do swear or affirm under penalty of perjury that I

actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am registered as a member of the Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored ; ~~by a court of competent jurisdiction;~~ that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since December 31 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and that I understand that my name will appear on all ballots as designated in this declaration.

.....
 (Designation of name)

.....
 (Signature of candidate for office)

Subscribed and sworn to before me
 this day of the month of of the year

Notary Public or other person
 authorized to administer an oath

(b) For nonpartisan office:

DECLARATION OF CANDIDACY OF FOR THE
 OFFICE OF

State of Nevada

County of

For the purpose of having my name placed on the official ballot as a candidate for the office of, I, the undersigned, do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office

pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored ; ~~by a court of competent jurisdiction;~~ that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this day of the month of of the year

.....
Notary Public or other person
authorized to administer an oath

3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:

(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his or her residence; or

(b) The candidate does not present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number or driver's license or identification card number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at the specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.

6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his or her civil rights restored, ~~by a court of competent jurisdiction,~~ the filing officer:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether the candidate has had his or her civil rights restored; ~~by a court of competent jurisdiction;~~ and

(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of State, or to the district attorney, if the filing officer is a person other than the Secretary of State.

7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his or her civil rights restored, ~~by a court of competent jurisdiction,~~ the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

Sec. 12. NRS 293.540 is hereby amended to read as follows:

293.540 The county clerk shall cancel the registration:

1. If the county clerk has personal knowledge of the death of the person registered, or if an authenticated certificate of the death of any elector is filed in the county clerk's office.

2. If the insanity or mental incompetence of the person registered is legally established.

3. Upon ~~the~~ a determination **based on specific evidence** that the person registered has been convicted of a felony unless:

(a) If the person registered was convicted of a felony in this State, the right to vote of the person has been restored pursuant to the provisions of **NRS 176A.850, 179.285, 213.090, 213.155 or 213.157.**

(b) If the person registered was convicted of a felony in another state, the right to vote of the person has been restored pursuant to the ~~laws of the state in which the person was convicted.~~ **provisions of section 10.3 of this act.**

↪ Before cancelling a registration pursuant to this subsection, the county clerk shall notify the registrant and provide to the registrant an affidavit which allows the registrant to affirm under penalty of perjury that he or she is a lawful resident of this State and that he or she has never been convicted of a felony ~~under the laws of~~ in this State or another state or, if so, has had his or her civil right to vote in this State restored pursuant to the provisions of **NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act. If the registrant so affirms or presents a court order or official documentation indicating that he or she has had his or her civil right to vote in this State restored pursuant to the provisions of **NRS 176A.850, 179.285, 213.090, 213.155 or 213.157** or pursuant to the provisions of section 10.3 of this act, the county clerk may not cancel the registration unless the county clerk has specific, documentary evidence that the registrant is ineligible to vote in this State. If the registrant fails to respond within 30 days after receiving the notice pursuant to this subsection, the county clerk may cancel the registration.**

4. Upon the production of a certified copy of the judgment of any court directing the cancellation to be made.

5. Upon the request of any registered voter to affiliate with any political party or to change affiliation, if that change is made before the end of the last day to register to vote in the election.

6. At the request of the person registered.

7. If the county clerk has discovered an incorrect registration pursuant to the provisions of **NRS 293.5235, 293.530 or 293.535** and the elector has failed to respond or appear to vote within the required time.

8. As required by **NRS 293.541.**

9. Upon verification that the application to register to vote is a duplicate if the county clerk has the original or another duplicate of the application on file in the county clerk's office.

Sec. 13. **NRS 293.543** is hereby amended to read as follows:

293.543 1. If the registration of an elector is cancelled pursuant to subsection 2 of **NRS 293.540**, the county clerk shall reregister the elector upon notice from the clerk of the district court that the elector has been declared sane or mentally competent by the district court.

2. If the registration of an elector is cancelled pursuant to subsection 3 of **NRS 293.540**, the elector may reregister ~~after presenting satisfactory evidence which demonstrates that the elector's:~~ **if:**

(a) ~~Conviction~~ **The elector's conviction** has been overturned; or

(b) ~~Civil rights have been restored:~~

~~(1) If the elector was convicted in this State, pursuant to the provisions of NRS 213.090, 213.155 or 213.157.~~

~~(2) If the elector was convicted in another state, pursuant to the laws of the state in which he or she was convicted.]~~ *The elector has been restored to his or her civil right to vote in this State pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act.*

↪ A county clerk shall not require an elector seeking to reregister pursuant to this subsection to present any information or documentation other than the information and documentation required for a person to register to vote pursuant to this chapter, unless the county clerk has specific evidence that the elector has been convicted of a felony ~~under the laws of~~ in this State or another state and has not had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act. If the county clerk has or receives such specific evidence, the county clerk must notify the elector of that evidence and provide to the elector an affidavit which allows the elector to affirm under penalty of perjury that he or she is a lawful resident of this State and that he or she has never been convicted of a felony ~~under the laws of~~ in this State or another state or, if so, has had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act. If the registrant so affirms or presents a court order or official documentation indicating that he or she has had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act, the county clerk must reregister the elector.

3. If the registration of an elector is cancelled pursuant to the provisions of subsection 5 of NRS 293.540, the elector may reregister immediately.

4. If the registration of an elector is cancelled pursuant to the provisions of subsection 6 of NRS 293.540, after the close of registration for a primary election, the elector may not reregister until after the primary election.

Sec. 14. NRS 293.547 is hereby amended to read as follows:

293.547 1. After the 30th day but not later than the 25th day before any election, a written challenge may be filed with the county clerk.

2. A registered voter may file a written challenge if:

(a) He or she is registered to vote in the same precinct as the person whose right to vote is challenged; and

(b) The challenge is based on the personal knowledge of the registered voter.

3. The challenge must be signed and verified by the registered voter and name the person whose right to vote is challenged and the ground of the challenge.

4. A challenge filed pursuant to this section must not contain the name of more than one person whose right to vote is challenged. The county clerk shall not accept for filing any challenge which contains more than one such name.

5. The county clerk shall:

(a) File the challenge in the registrar of voters' register and:

(1) In counties where records of registration are not kept by computer, he or she shall attach a copy of the challenge to the challenged registration in the election board register.

(2) In counties where records of registration are kept by computer, he or she shall have the challenge printed on the computer entry for the challenged registration and add a copy of it to the election board register.

(b) Within 5 days after a challenge is filed, mail a notice in the manner set forth in NRS 293.530 to the person whose right to vote has been challenged pursuant to this section informing the person of the challenge. *If the person's right to vote is challenged on the grounds that the person has been convicted of a felony ~~under the laws of~~ in this State or another state and has not had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act, the notice must be accompanied by an affidavit which allows the person whose right to vote has been challenged to affirm under penalty of perjury that he or she is a lawful resident of this State and that he or she has never been convicted of a felony ~~under the laws of~~ in this State or another state or, if so, has had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act. If the person so affirms or presents a court order or official documentation indicating that he or she has had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act, the county clerk may not cancel the registration of the person whose right to vote has been challenged unless the county clerk has specific, documentary evidence that the person is ineligible to vote in this State.* If the person fails to respond or appear to vote within the required time, the county clerk shall cancel the person's registration. A copy of the challenge and information describing how to reregister properly must accompany the notice.

(c) Immediately notify the district attorney. A copy of the challenge must accompany the notice.

6. Upon receipt of a notice pursuant to this section, the district attorney shall investigate the challenge within 14 days and, if appropriate, cause proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. *If the right to vote of a person has been challenged on the grounds that the person has been convicted of a felony*

~~Under the laws of~~ in this State or another state and has not had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act, and if the person presents to the district attorney or the court the affidavit signed by the person pursuant to paragraph (b) of subsection 5 or a court order or other documentation indicating that he or she has had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act, the district attorney or the court must find that the person is entitled to the civil right to vote in this State unless the district attorney or the court has specific, documentary evidence that the person is ineligible to vote in this State. The court shall give such proceedings priority over other civil matters that are not expressly given priority by law. Upon court order, the county clerk shall cancel the registration of the person whose right to vote has been challenged pursuant to this section.

Sec. 15. NRS 293C.185 is hereby amended to read as follows:

293C.185 1. Except as otherwise provided in NRS 293C.115 and 293C.190, a name may not be printed on a ballot to be used at a primary city election unless the person named has filed a declaration of candidacy or an acceptance of candidacy and has paid the fee established by the governing body of the city not earlier than 70 days before the primary city election and not later than 5 p.m. on the 60th day before the primary city election.

2. A declaration of candidacy required to be filed by this section must be in substantially the following form:

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

City of.....

For the purpose of having my name placed on the official ballot as a candidate for the office of, I,, the undersigned do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence in the city, township or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored ; ~~by a court of competent jurisdiction;~~ that if nominated as a candidate at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that

I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)
.....

.....
(Signature of candidate for office)
.....

Subscribed and sworn to before me
this day of the month of of the year

.....
Notary Public or other person
authorized to administer an oath

3. The address of a candidate that must be included in the declaration or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:

- (a) The candidate's address is listed as a post office box unless a street address has not been assigned to the residence; or
- (b) The candidate does not present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

- (a) May not be withheld from the public; and
- (b) Must not contain the social security number or driver's license or identification card number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the city clerk as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293C.186. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the city clerk duplicate copies of the process. The city clerk shall immediately send, by registered or certified mail, one of the copies to the candidate at the specified address, unless the candidate has designated in writing to the city

clerk a different address for that purpose, in which case the city clerk shall mail the copy to the last address so designated.

6. If the city clerk receives credible evidence indicating that a candidate has been convicted of a felony and has not had his or her civil rights restored, ~~by a court of competent jurisdiction,~~ the city clerk:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether the candidate has had his or her civil rights restored; ~~by a court of competent jurisdiction;~~ and

(b) Shall transmit the credible evidence and the findings from such investigation to the city attorney.

7. The receipt of information by the city attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293C.186. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his or her civil rights restored, ~~by a court of competent jurisdiction,~~ the city clerk must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

Sec. 16. 1. Any person residing in this State who, before July 1, 2011:

(a) Was honorably discharged from probation pursuant to NRS 176A.850;

(b) Was granted a pardon with the restoration of the right to vote pursuant to NRS 213.090;

(c) Was honorably discharged from parole pursuant to NRS 213.155;

or

(d) Completed his or her sentence and was released from prison pursuant to NRS 213.157,

↪ who is not on probation or parole or serving a sentence of imprisonment on July 1, 2011, and who has not had his or her civil right to vote restored is hereby restored to the civil right to vote.

2. The provisions of this act do not require any notification to a person described in subsection 1 of the restoration of his or her civil right to vote.

Sec. 17. This act becomes effective on July 1, 2011.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Assembly Bill No. 301 relates to the state personnel system. Amendment No. 688 makes the following changes:

It restores the civil right to vote to those who were honorably discharged from probation or parole, were granted a pardon, or had completed a sentence before July 1, 2011.

It provides that there is no requirement to notify any of these individuals that their civil right to vote has been restored; and it establishes an effective date of July 1, 2011.

Amendment adopted.

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

Assembly Bill No. 308.

Bill read second time.

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

Amendment No. 706.

"SUMMARY—Revises provisions governing the regulation of mortgage lending. (BDR 54-183)"

"AN ACT relating to mortgage lending; revising provisions governing certain mortgage lending professionals to be consistent with certain federal law governing the provision of mortgage assistance relief services; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law regulates the activities of certain mortgage lending professionals who provide counseling, assistance and advice to homeowners whose homes are subject to an outstanding notice of the pendency of an action for foreclosure. (NRS 645F.300-645F.450) The Federal Trade Commission similarly regulates the activities of persons who provide mortgage assistance relief services. (16 C.F.R. Part 322) This bill revises Nevada law to provide protections for homeowners consistent with the protections provided pursuant to the regulations adopted by the Federal Trade Commission.

Section 2 of this bill prohibits a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant from requesting or receiving any compensation before a homeowner executes a written agreement that incorporates an offer of mortgage assistance.

Section 3 of this bill requires a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant to maintain certain records for not less than 24 months. **Section 3** provides that such records are subject to inspection and audit by the Commissioner of Mortgage Lending. **Section 3** also requires a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant to take reasonable steps to ensure that any of his or her employees or independent contractors comply with the laws and regulations governing persons who perform covered services for compensation, foreclosure consultants and loan modification consultants.

Section 4 of this bill requires a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant to make certain disclosures in connection with any commercial communication relating to the provision of any covered service.

Section 5 of this bill requires a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant to provide certain notices to a homeowner at the time the homeowner is presented with a written agreement incorporating an offer of mortgage assistance obtained from the homeowner's lender or servicer.

Section 6 of this bill prohibits a person who knows or reasonably should know that a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant is not in compliance with the laws and regulations governing covered services from providing substantial assistance or support to the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant.

~~[Section 8 of this bill extends to the employees of an attorney at law the exemption from regulation as a foreclosure consultant or foreclosure purchaser that is currently provided under certain circumstances to an attorney at law.]~~

Section 9 of this bill prohibits a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant from making certain express or implied representations relating to the provision of covered services, including any representation that: (1) a homeowner cannot or should not contact or communicate with his or her lender; or (2) the covered service is affiliated with or endorsed by the Federal Government, the State of Nevada or any department, agency or political subdivision thereof. **Section 9** also prohibits a person who performs any covered service, a foreclosure consultant or a loan modification consultant from obtaining or attempting to obtain from a homeowner a waiver of any provision of this bill or existing law. Any such waiver is void and unenforceable. A violation of any provision of **section 9** constitutes mortgage lending fraud and is punishable as a category C felony.

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

Section 1. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant shall not claim, demand, charge, collect or receive any compensation before a homeowner has executed a written agreement with the lender or servicer incorporating the offer of mortgage assistance obtained from the lender or servicer by the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant.*

Sec. 3. 1. *A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant shall keep each of the following records for a period of not less than 24 months after the date the record is created:*

(a) Each contract or other agreement between the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant and a homeowner.

(b) A copy of each written communication between the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant and a homeowner which occurred before the date on which the homeowner entered into a contract for covered services.

(c) A copy of every document or telephone recording created in connection with the requirements of subsection 2.

(d) The file of each homeowner, which must include, without limitation, the name of the homeowner, his or her telephone number, the amount of money paid by the homeowner and a description of the covered services purchased by the homeowner.

(e) For each covered service, a copy of every materially different sales script, training material, commercial communication or any other marketing material, including, without limitation, any material published on an Internet website.

(f) A copy of each disclosure provided to a homeowner pursuant to section 5 of this act.

2. A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant shall:

(a) Take reasonable steps to ensure that all employees and independent contractors of the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant comply with the provisions of NRS 645F.300 to 645F.450, inclusive, and sections 2 to 6, inclusive, of this act and any regulations adopted pursuant thereto.

(b) If the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant is engaged in the telemarketing of covered services, perform random, blind recording and testing of the oral representations made by persons engaged in sales or other customer service functions.

(c) Establish a procedure for receiving and responding to all complaints of homeowners.

(d) Record the number and nature of complaints of homeowners regarding transactions involving an employee or independent contractor of the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant.

(e) Investigate promptly and fully each complaint received from a homeowner.

(f) Take corrective action with respect to any employee or independent contractor whom the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant determines is not complying with the provisions of NRS 645F.300 to

645F.450, inclusive, and sections 2 to 6, inclusive, of this act and any regulations adopted pursuant thereto.

(g) Maintain any information necessary to demonstrate compliance with the requirements of this subsection.

3. All records kept pursuant to this section are subject to inspection and audit by the Commissioner and authorized representatives of the Commissioner.

Sec. 4. 1. A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant shall:

(a) Include with each general commercial communication for any covered service the following disclosures printed in at least 12-point type:

(1) "[Name of company] is not associated with the government, and our service is not approved by the government or your lender."

(2) In any case in which the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant makes an express or implied representation that homeowners will receive covered services:

"Even if you accept this offer and use our service, your lender may not agree to change your loan."

(b) Include with each commercial communication which is specific to a homeowner the following disclosures printed in at least 12-point type:

(1) "You may stop doing business with us at any time. You may accept or reject the offer we obtain from your lender [or servicer]. If you reject the offer, you do not have to pay us. If you accept the offer, you will have to pay us [insert total amount or method of calculating the total amount] for our services."

(2) "[Name of company] is not associated with the government, and our service is not approved by the government or your lender."

(3) In any case in which the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant makes an express or implied representation that the homeowner will receive covered services:

"Even if you accept this offer and use our service, your lender may not agree to change your loan."

(c) Include with any commercial communication relating to a covered service in which the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant represents expressly or by implication that a homeowner should temporarily or permanently discontinue payments, in whole or in part, on any mortgage or lien on a residence in foreclosure a clear and prominent statement, in close proximity to the express or implied representation and printed in at least 12-point type, which provides that:

"If you stop paying your mortgage, you could lose your home and damage your credit rating."

2. *The disclosures required by paragraphs (a) and (b) of subsection 1 must be made in a clear and prominent manner and:*

(a) In a written communication, the disclosures must appear together and be preceded by the heading "IMPORTANT NOTICE," printed in at least 14-point bold type; and

(b) In an oral communication, the audio component of the required disclosures must be preceded by the statement "Before using this service, consider the following information" and, if the oral communication is made by telephone, must be made at the beginning of the communication.

3. *As used in this section, "total amount" means all amounts the homeowner must pay to purchase, receive and use all covered services that are subject to the contract for covered services, including, without limitation, all fees and charges.*

Sec. 5. 1. *A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant shall, at the time the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant provides a homeowner with a written agreement between the homeowner and the homeowner's lender or servicer incorporating the offer of mortgage assistance obtained from the homeowner's lender or servicer:*

(a) Provide the following notice printed in at least 12-point type to the homeowner:

"This is an offer of mortgage assistance we obtained from your lender [or servicer]. You may accept or reject the offer. If you reject the offer, you do not have to pay us. If you accept the offer, you will have to pay us [insert total amount or method of calculating the total amount] for our services."

↪ The notice must be made in a clear and prominent manner on a separate written page and be preceded by the heading "IMPORTANT NOTICE: BEFORE BUYING THIS SERVICE, CONSIDER THE FOLLOWING INFORMATION" printed in at least 14-point bold type.

(b) Provide the homeowner with a notice printed in at least 12-point type from the homeowner's lender or servicer which includes a complete description of all material differences between the terms, conditions and limitations which apply to the homeowner's current mortgage loan and the terms, conditions and limitations which will apply to the homeowner's mortgage loan if he or she accepts the offer of the lender or servicer, including, without limitation, the differences between the mortgage loans with regard to the:

(1) Principal balance;

(2) Contract interest rate, including the maximum rate and any adjustable rates;

(3) Amount and number of scheduled periodic payments;

(4) Monthly amounts owed for principal, interest, taxes and mortgage insurance;

(5) *Amount of any delinquent payments owing or outstanding; and*

(6) *Term.*

↪ *The notice required by this paragraph must be made in a clear and prominent manner on a separate written page and be preceded by the heading "IMPORTANT INFORMATION FROM [name of lender or servicer] ABOUT THIS OFFER" printed in at least 14-point bold type.*

2. *If the offer obtained from the lender or servicer by the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant is a trial mortgage loan modification, the notice required by paragraph (b) of subsection 1 must include notice to the homeowner:*

(a) *That the homeowner may not qualify for a permanent mortgage loan modification; and*

(b) *Setting forth the likely amount of scheduled periodic payments and arrears, payments and fees the homeowner would owe if the homeowner failed to qualify for a permanent mortgage loan modification.*

3. *As used in this section, "total amount" has the meaning ascribed to it in section 4 of this act.*

Sec. 6. *A person who knows or reasonably should know that another person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant is in violation of any provision of NRS 645F.300 to 645F.450, inclusive, and sections 2 to 6, inclusive, of this act and any regulations adopted pursuant thereto shall not provide substantial assistance or support to the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant.*

Sec. 7. NRS 645F.300 is hereby amended to read as follows:

645F.300 As used in NRS 645F.300 to 645F.450, inclusive, **and sections 2 to 6, inclusive, of this act**, unless the context otherwise requires, the words and terms defined in NRS 645F.310 to 645F.370, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 645F.380 is hereby amended to read as follows:

645F.380 The provisions of NRS 645F.300 to 645F.450, inclusive, **and sections 2 to 6, inclusive, of this act** do not apply to, and the terms "foreclosure consultant" and "foreclosure purchaser" do not include:

1. An attorney at law rendering services in the performance of his or her duties as an attorney at law ~~and his or her employees,~~ unless the attorney at law ~~is for his or her employees are~~ rendering those services in the course and scope of his or her employment by or other affiliation with a ~~mortgage broker or mortgage agent,~~ **person who is licensed or required to be licensed pursuant to NRS 645F.390;**

2. A provider of debt-management services registered pursuant to chapter 676A of NRS while providing debt-management services pursuant to chapter 676A of NRS;

3. A person or the authorized agent of a person acting under the provisions of a program sponsored by the Federal Government, this State or a local government, including, without limitation, the Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Federal Home Loan Bank ~~};~~
System;

4. A person who holds or is owed an obligation secured by a mortgage or other lien on a residence in foreclosure if the person performs services in connection with this obligation or lien and the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;

5. Any person doing business under the laws of this State or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of those persons, and any agent or employee of those persons while engaged in the business of those persons;

6. A person, other than a person who is licensed pursuant to NRS 645F.390, who is licensed pursuant to chapter 692A or any chapter of title 54 of NRS while acting under the authority of the license;

7. A nonprofit agency or organization that offers credit counseling or advice to a homeowner of a residence in foreclosure or a person in default on a loan; or

8. A judgment creditor of the homeowner whose claim accrued before the recording of the notice of the pendency of an action for foreclosure against the homeowner pursuant to NRS 14.010 or the recording of the notice of default and election to sell pursuant to NRS 107.080.

Sec. 9. NRS 645F.400 is hereby amended to read as follows:

645F.400 1. A person who performs any covered service, a foreclosure consultant and a loan modification consultant shall not:

(a) Claim, demand, charge, collect or receive any compensation except in accordance with ~~NRS 645F.394.~~ **the terms of a contract for covered services.**

(b) Claim, demand, charge, collect or receive any fee, interest or other compensation for any reason which is not fully disclosed to the homeowner.

(c) Take **or acquire, directly or indirectly**, any wage assignment, lien on real or personal property, assignment of a homeowner's equity ~~for other~~, **any** interest in a residence ~~in foreclosure~~ or other security for the payment of compensation. Any such **assignment or** security is void and unenforceable.

(d) Receive any consideration from any third party in connection with a covered service provided to a homeowner unless the consideration is first fully disclosed to the homeowner.

~~(e) Acquire, directly or indirectly, any interest in the residence in foreclosure of a homeowner with whom the foreclosure consultant has contracted to perform a covered service.~~

~~(f) Accept a power of attorney from a homeowner for any purpose, other than to inspect documents as provided by law.~~

(f) Make any representation, express or implied, that a homeowner cannot or should not contact or communicate with his or her lender or servicer.

(g) Misrepresent any aspect of any covered service.

(h) Make any representation, express or implied, that a covered service is affiliated with, associated with or endorsed or approved by:

(1) The Federal Government, the State of Nevada or any department, agency or political subdivision thereof;

(2) Any governmental plan for homeowner assistance;

(3) Any nonprofit housing counselor agency or program;

(4) The maker, holder or servicer of a homeowner's mortgage loan; or

(5) Any other person, entity or program.

(i) Make any representation, express or implied, about the benefits, performance or efficacy of any covered service unless, at the time the representation is made, the person who performs any covered service, the foreclosure consultant or the loan modification consultant possesses and relies upon competent and reliable evidence which substantiates that the representation is true. As used in this paragraph, "competent and reliable evidence" means tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area that have been conducted and evaluated in an objective manner by persons qualified to do so using procedures generally accepted in the profession to yield accurate and reliable results.

(j) Obtain or attempt to obtain any waiver of the provisions of NRS 645F.300 to 645F.450, inclusive, and sections 2 to 6, inclusive, of this act or any regulations adopted pursuant thereto. Any such waiver is void and unenforceable.

2. In addition to any other penalty, a violation of any provision of this section shall be deemed to constitute mortgage lending fraud for the purposes of NRS 205.372.

Sec. 10. NRS 645F.430 is hereby amended to read as follows:

645F.430 A foreclosure purchaser who engages in any conduct that operates as a fraud or deceit upon a homeowner in connection with a transaction that is subject to the provisions of NRS 645F.300 to 645F.450, inclusive, **and sections 2 to 6, inclusive, of this act**, including, without limitation, a foreclosure reconveyance, is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not more than \$50,000, or by both fine and imprisonment.

Sec. 11. NRS 645F.440 is hereby amended to read as follows:

645F.440 1. In addition to the penalty provided in NRS 645F.430 and except as otherwise provided in subsection 5, if a foreclosure purchaser engages in any conduct that operates as a fraud or deceit upon a homeowner in connection with a transaction that is subject to the provisions of NRS 645F.300 to 645F.450, inclusive, **and sections 2 to 6, inclusive, of this act**, including, without limitation, a foreclosure reconveyance, the transaction in which the foreclosure purchaser acquired title to the residence in foreclosure may be rescinded by the homeowner within 2 years after the date of the recording of the conveyance.

2. To rescind a transaction pursuant to subsection 1, the homeowner must give written notice to the foreclosure purchaser and a successor in interest to the foreclosure purchaser, if the successor in interest is not a bona fide purchaser, and record that notice with the recorder of the county in which the property is located. The notice of rescission must contain:

(a) The name of the homeowner, the foreclosure purchaser and any successor in interest who holds title to the property; and

(b) A description of the property.

3. Within 20 days after receiving notice pursuant to subsection 2:

(a) The foreclosure purchaser and the successor in interest, if the successor in interest is not a bona fide purchaser, shall reconvey to the homeowner title to the property free and clear of encumbrances which were created subsequent to the rescinded transaction and which are due to the actions of the foreclosure purchaser; and

(b) The homeowner shall return to the foreclosure purchaser any consideration received from the foreclosure purchaser in exchange for the property.

4. If the foreclosure purchaser has not reconveyed to the homeowner title to the property within the period described in subsection 3, the homeowner may bring an action to enforce the rescission in the district court of the county in which the property is located.

5. A transaction may not be rescinded pursuant to this section if the foreclosure purchaser has transferred the property to a bona fide purchaser.

6. As used in this section, "bona fide purchaser" means any person who purchases an interest in a residence in foreclosure from a foreclosure purchaser in good faith and for valuable consideration and who does not know or have reasonable cause to believe that the foreclosure purchaser engaged in conduct which violates subsection 1.

Sec. 12. NRS 645F.450 is hereby amended to read as follows:

645F.450 The rights, remedies and penalties provided pursuant to the provisions of NRS 645F.300 to 645F.450, inclusive, **and sections 2 to 6, inclusive, of this act** are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity, including, without limitation, any criminal penalty that may be imposed pursuant to NRS 645F.430.

Sec. 13. NRS 645F.394 is hereby repealed.

Sec. 14. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTION

645F.394 Foreclosure consultants, loan modification consultants and persons performing covered services for compensation: Deposits and trust accounts; commingling; records; inspection and audit.

1. All money paid to a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant by a person in full or partial payment of covered services to be performed:

(a) Must be deposited in a separate checking account located in a federally insured depository financial institution or credit union in this State which must be designated a trust account;

(b) Must be kept separate from money belonging to the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant; and

(c) Must not be withdrawn by the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant until the completion of every covered service as agreed upon in the contract for covered services.

2. The person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant shall keep records of all money deposited in a trust account pursuant to subsection 1. The records must clearly indicate the date and from whom he or she received money, the date deposited, the dates of withdrawals, and other pertinent information concerning the transaction, and must show clearly for whose account the money is deposited and to whom the money belongs. The person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant shall balance each separate trust account at least monthly and provide to the Commissioner, on a form provided by the Commissioner, an annual accounting which shows an annual reconciliation of each separate trust account. All such records and money are subject to inspection and audit by the Commissioner and authorized representatives of the Commissioner.

3. Each person who performs any covered service for compensation, each foreclosure consultant and each loan modification consultant shall notify the Commissioner of the names of the banks and credit unions in which he or she maintains trust accounts and specify the names of the accounts on forms provided by the Commissioner.

4. As used in this section, "completion of every covered service" means:

(a) Successful results with respect to what the performance of each covered service was intended to yield for the homeowner, as described in the contract for covered services; or

(b) If the performance of one or more covered service has an unsuccessful result with respect to what the performance of that covered service was intended to yield for the homeowner, a showing that every reasonable effort was made, under the particular circumstances, to obtain successful results,

↪ as verified in a written statement provided to the homeowner.

Senator Roberson moved the adoption of the amendment.

Remarks by Senator Roberson.

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

Amendment No. 706 to Assembly Bill No. 308 provides that the employees of an attorney at law are subject to the provisions of the *Nevada Revised Statutes* that regulate foreclosure consultants, foreclosure purchasers, loan modification consultants and persons performing covered services for compensation. This result is accomplished by deleting the exemption for these employees.

Amendment adopted.

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

Assembly Bill No. 393.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 759.

"SUMMARY—Requires criminal background investigations of educational personnel upon renewal of a license. (BDR 34-8)"

"AN ACT relating to educational personnel; **requiring the board of trustees of each school district and the governing body of each charter school to adopt a policy requiring the licensed employees of the school district or charter school to report information concerning arrests for or convictions of certain crimes;** requiring the Commission on Professional Standards in Education to include in the fee for the renewal of licensure of teachers and other educational personnel the amount required for processing the fingerprints of the applicant for renewal by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation; requiring the Central Repository to investigate the criminal background of each applicant for renewal of a license submitted to the Superintendent of Public Instruction; revising other provisions governing the renewal of licensure of teachers and other educational personnel; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Department of Education is required to establish a procedure for the notification, tracking and monitoring of the status of criminal cases involving persons who are licensed by the Superintendent of Public Instruction and for the reporting by a school district or charter school to the Department if a licensed employee is arrested for certain crimes. (NRS 391.053-391.059) Section 1 of this bill requires the board of trustees of each school district and the governing body of each charter school to adopt a policy which requires a licensed employee of the school district or charter school to report to the school district or charter school if the employee is arrested for or convicted of a crime which is required to be reported pursuant to the policy.

Under existing law, an applicant for a license to teach must submit to the Superintendent of Public Instruction with his or her application a complete set of his or her fingerprints and written permission authorizing the Superintendent to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant. (NRS 391.033) Also under existing law, the Central Repository is required to notify the Superintendent of Public Instruction if the background check indicates that an applicant for licensure has been convicted of certain criminal violations. In addition, the Central Repository is required to notify a county school district, charter school or private school if the investigation of an employee of the school district, charter school or private school whose fingerprints are submitted to the Central Repository indicates that the person has been convicted of certain criminal violations. (NRS 179A.075) An applicant for renewal of a license issued by the Superintendent of Public Instruction is not required to undergo a subsequent background investigation of his or her criminal history upon renewal of the license.

Under existing law, the Commission on Professional Standards in Education is required to fix fees of not less than \$65 for the issuance and renewal of a license to teach. (NRS 391.040) Existing administrative regulations of the Commission prescribe a fee for: (1) initial licensure of \$110, plus the amount charged for the criminal history of the applicant; and (2) renewal of a license of \$80. (NAC 391.045, 391.070) ~~Section 123~~ Section 3 of this bill requires the Commission to set the fees for renewal of a license to include the fees for processing the fingerprints of the applicant for renewal by the Central Repository and the Federal Bureau of Investigation. ~~Section 124~~ Section 4 of this bill requires the Central Repository to investigate the criminal history of applicants for renewal of a license submitted to the Superintendent of Public Instruction. ~~Section 144~~ Section 5 of this bill makes the provisions of the bill effective on July 1, 2011, for the purposes of adopting regulations **and policies** and performing any other preparatory administrative tasks and on January 1, 2012, for all other purposes.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

The board of trustees of each school district and the governing body of each charter school shall adopt a policy which requires a licensed employee of the school district or charter school to report to the school district or charter school if the employee is arrested for or convicted of a crime. The policy must include, without limitation, an identification of:

- 1. The crimes for which an arrest or conviction must be reported;**
- 2. The person to whom the report must be made; and**

3. The time period after the arrest or conviction in which the report must be made.

~~Section 1~~ **Sec. 2.** NRS 391.033 is hereby amended to read as follows:

391.033 1. All licenses for teachers and other educational personnel are granted by the Superintendent of Public Instruction pursuant to regulations adopted by the Commission and as otherwise provided by law.

2. An application for the issuance of a license must include the social security number of the applicant.

3. Every applicant for a license must submit with his or her application a complete set of his or her fingerprints and written permission authorizing the Superintendent to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its *initial* report on the criminal history of the applicant **and for reports thereafter upon renewal of the license pursuant to subsection 6 of NRS 179A.075**, and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant.

4. The Superintendent may issue a provisional license pending receipt of the reports of the Federal Bureau of Investigation and the Central Repository for Nevada Records of Criminal History if the Superintendent determines that the applicant is otherwise qualified.

5. A license must be issued to , **or renewed for, as applicable**, an applicant if:

(a) The Superintendent determines that the applicant is qualified;

(b) The reports on the criminal history of the applicant from the Federal Bureau of Investigation and the Central Repository for Nevada Records of Criminal History:

(1) Do not indicate that the applicant has been convicted of a felony or any offense involving moral turpitude; or

(2) Indicate that the applicant has been convicted of a felony or an offense involving moral turpitude but the Superintendent determines that the conviction is unrelated to the position within the county school district or charter school for which the applicant applied ~~to~~ **or for which he or she is currently employed, as applicable**; and

(c) ~~The~~ **For initial licensure, the** applicant submits the statement required pursuant to NRS 391.034.

~~Sec. 2~~ **Sec. 3.** NRS 391.040 is hereby amended to read as follows:

391.040 1. The Commission shall fix fees of not less than \$65 for the ~~issuance and renewal~~ :

(a) *Initial issuance* of a license ~~to~~ , **which must include the fees for processing the fingerprints of the applicant by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation; and**

(b) *Renewal of a license, which must include the fees for processing the fingerprints of the applicant for renewal by the Central Repository for*

Nevada Records of Criminal History and the Federal Bureau of Investigation.

2. The fee for issuing a duplicate license is the same as for issuing the original.

~~2.~~ 3. The portion of each fee which represents the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant must be deposited with the State Treasurer for credit to the appropriate account of the Department of Public Safety. The remaining portion of the money received from the fees must be deposited with the State Treasurer for credit to the appropriate account of the Department of Education.

Sec. 3.5. NRS 391.053 is hereby amended to read as follows:

391.053 As used in NRS 391.053 to 391.059, inclusive, **and section 1 of this act**, "arrest" has the meaning ascribed to it in NRS 171.104.

Sec. 3.7. NRS 391.059 is hereby amended to read as follows:

391.059 Immunity from civil or criminal liability extends to every person who, pursuant to NRS 391.053 to 391.059, inclusive, **and section 1 of this act**, in good faith:

1. Participates in the making of a report;
2. Causes or conducts an investigation of a person who is licensed pursuant to this chapter and who is arrested; or
3. Submits information to the Department concerning a person who is licensed pursuant to this chapter and who is arrested.

~~Sec. 3.4~~ **Sec. 4. NRS 179A.075 is hereby amended to read as follows:**

179A.075 1. The Central Repository for Nevada Records of Criminal History is hereby created within the Records and Technology Division of the Department.

2. Each agency of criminal justice and any other agency dealing with crime or delinquency of children shall:

(a) Collect and maintain records, reports and compilations of statistical data required by the Department; and

(b) Submit the information collected to the Central Repository in the manner approved by the Director of the Department.

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates or issues, and any information in its possession relating to the genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913, to the Division. The information must be submitted to the Division:

(a) Through an electronic network;

(b) On a medium of magnetic storage; or

(c) In the manner prescribed by the Director of the Department,

↪ within the period prescribed by the Director of the Department. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular

crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.

4. The Division shall, in the manner prescribed by the Director of the Department:

(a) Collect, maintain and arrange all information submitted to it relating to:

(1) Records of criminal history; and

(2) The genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913.

(b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him or her.

(c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.

5. The Division may:

(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;

(b) Enter into cooperative agreements with repositories of the United States and other states to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and

(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints the Central Repository submits to the Federal Bureau of Investigation and:

(1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;

(2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;

(3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;

(4) For whom such information is required to be obtained pursuant to NRS 427A.735 and 449.179; or

(5) About whom any agency of the State of Nevada or any political subdivision thereof is authorized by law to have accurate personal information for the protection of the agency or the persons within its jurisdiction.

➔ To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to this subsection, the Central Repository must receive the person's complete set of fingerprints from the agency or political subdivision and submit the fingerprints to the Federal Bureau of Investigation for its report.

6. The Central Repository shall:

(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.

(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.

(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.

(d) Investigate the criminal history of any person who:

(1) Has applied to the Superintendent of Public Instruction for *the issuance or renewal of* a license;

(2) Has applied to a county school district, charter school or private school for employment; or

(3) Is employed by a county school district, charter school or private school,

↪ and notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.

(e) Upon discovery, notify the superintendent of each county school district, the governing body of each charter school or the administrator of each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:

(1) Investigated pursuant to paragraph (d); or

(2) Employed by a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation,

↪ who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.

(f) Investigate the criminal history of each person who submits fingerprints or has fingerprints submitted pursuant to NRS 427A.735, 449.176 or 449.179.

(g) On or before July 1 of each year, prepare and present to the Governor a printed annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be presented to the Governor throughout the year regarding specific areas of crime if they are approved by the Director of the Department.

(h) On or before July 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report containing statistical data about domestic violence in this State.

(i) Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of children by any agency identified in subsection 2 and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

7. The Central Repository may:

(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime or the delinquency of children.

(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central Repository may not collect such a fee from an agency of criminal justice, any other agency dealing with crime or the delinquency of children which is required to submit information pursuant to subsection 2 or the State Disaster Identification Team of the Division of Emergency Management of the Department. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.

(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.

8. As used in this section:

(a) "Personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:

(1) The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and

(2) The fingerprints, voiceprint, retina image and iris image of a person.

(b) "Private school" has the meaning ascribed to it in NRS 394.103.

~~Sec. 4.~~ **Sec. 5.** This act becomes effective on July 1, 2011, for the purposes of adopting any necessary regulations **and policies** and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act and on January 1, 2012, for all other purposes.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

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

Amendment No. 759 revises the bill to add the requirement that school district boards of trustees and charter school governing bodies adopt a policy for self-reporting by their licensed educators if the employee is arrested for or convicted of a crime. The policy must include the crimes which must be reported, the person to whom the report must be made; and the time period within which the report must be made.

Amendment adopted.

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

Assembly Bill No. 501.

Bill read second time.

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

Amendment No. 692.

"SUMMARY—Provides for ~~the study of issues regarding~~ **an audit of the fiscal costs of** the death penalty. (BDR S-1103)"

"AN ACT relating to the death penalty; providing for ~~the study of issues regarding~~ **an audit of the fiscal costs of** the death penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill requires the ~~Audit Division of the Legislative Counsel Bureau~~ **Legislative Commission to direct the Legislative Auditor** to conduct ~~the staff study on~~ **an audit of** the fiscal costs of the death penalty in Nevada. The ~~study~~ **audit** must include, without limitation, an examination and analysis of the costs of prosecuting and adjudicating capital cases compared to noncapital cases. The Legislative Auditor is required to ~~submit~~ **present** a **final** written report of ~~findings to the Director of the Legislative Counsel Bureau~~ **the audit to the Audit Subcommittee of the Legislative Commission** on or before January 31, 2013.

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

Section 1. (Deleted by amendment.)

Sec. 2. 1. The Legislative Commission shall direct the ~~Audit Division of the~~ Legislative ~~Counsel Bureau~~ **Auditor** to conduct ~~the staff study~~ **an audit** of the fiscal costs associated with the death penalty in this State.

2. The ~~study~~ **audit** conducted pursuant to this section must include an examination and analysis concerning the costs of prosecuting and adjudicating capital murder cases as compared to noncapital murder cases, including, without limitation, the costs relating to the death penalty borne by the State of Nevada and by the local governments in this State at each stage of the proceedings in capital murder cases, including pretrial costs, trial costs, appellate and postconviction costs and costs of incarceration such as:

(a) The costs of legal counsel involved in the prosecution and defense of a capital murder case for all pretrial, trial and postconviction proceedings; and

(b) Additional procedural costs involved in capital murder cases as compared to noncapital murder cases, including, without limitation, costs relating to:

(1) Processing of bonds, including investigative costs of prosecutors, police and other staff;

(2) Investigation of a case before a person is charged with a crime, including costs for investigation by the prosecution and the defense;

- (3) Pretrial motions;
- (4) Extradition;
- (5) Psychiatric and medical evaluations;
- (6) Expert witnesses;
- (7) Juries;
- (8) Sentencing proceedings;
- (9) Appellate and postconviction proceedings, including motions, writs of certiorari and state and federal petitions for postconviction relief;
- (10) Requests for clemency;
- (11) Incarceration of persons awaiting trial in capital murder cases and persons sentenced to death; and
- (12) Execution of a sentence of death, including costs of facilities and staff.

3. **The audit must be conducted in the manner set forth in NRS 218G.010 to 218G.450, inclusive, and for purposes of the audit the provisions of those sections are applicable to a local government in the same manner as to an agency of the State.**

4. On or before January 31, 2013, the Legislative Auditor shall [submit] **present a final** written report of [any findings to the Director of the Legislative Counsel Bureau for transmittal to the 77th Session of the Nevada Legislature.] **the audit to the Audit Subcommittee of the Legislative Commission created by NRS 218E.240.**

Sec. 3. This act becomes effective upon passage and approval.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Assembly Bill No. 501 relates to a study of the fiscal cost of the death penalty and makes the following changes.

It clarifies that the Legislative Auditor will conduct an audit of the fiscal costs associated with the death penalty in Nevada; and it provides that the audit must be conducted pursuant to the provisions of Chapter 218G of the Nevada Revised Statutes and that the audit will be reported to the Audit Subcommittee of the Legislative Commission.

Amendment adopted.

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

Assembly Bill No. 545.

Bill read second time.

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

Amendment No. 750.

"SUMMARY—Makes changes to the population basis for the exercise of certain powers by local governments.(BDR 20-548)"

"AN ACT relating to classifications based on population; changing the population basis for the exercise of certain powers by local governments; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Unless expressly provided otherwise or required by context, "population" is defined under existing law for the entire Nevada Revised Statutes as "the number of people in a specified area as determined by the last preceding national decennial census conducted by the Bureau of the Census of the United States Department of Commerce" pursuant to the United States Constitution and as reported by the Secretary of Commerce to the Governor of Nevada. (NRS 0.050) The Nevada Supreme Court has upheld classifications in statutes based on the population of entities if the classification is rationally related to the subject matter and purpose of the statute, applies prospectively to all such entities that might come within its designated class and does not create an odious, absurd or bizarre distinction. (*County of Clark v. City of Las Vegas*, 97 Nev. 260, 264 (1981)) This bill constitutes the Legislature's reconsideration of the population classifications in existing law to determine whether those classifications continue to meet the conditions expressed by the Nevada Supreme Court.

Section 42 of Assembly Bill No. 545 is hereby amended as follows:

Sec. 42. NRS 248.100 is hereby amended to read as follows:

248.100 1. The sheriff shall:

(a) Except in a county whose population is ~~1400,000~~ ~~1100,000~~ 700,000 or more, attend in person, or by deputy, all sessions of the district court in his or her county.

(b) Obey all the lawful orders and directions of the district court in his or her county.

(c) Except as otherwise provided in subsection 2, execute the process, writs or warrants of courts of justice, judicial officers and coroners, when delivered to the sheriff for that purpose.

2. The sheriff may authorize the constable of the appropriate township to receive and execute the process, writs or warrants of courts of justice, judicial officers and coroners.

Section 43 of Assembly Bill No. 545 is hereby amended as follows:

Sec. 43. NRS 252.070 is hereby amended to read as follows:

252.070 1. All district attorneys may appoint deputies, who are authorized to transact all official business relating to those duties of the office set forth in NRS 252.080 and 252.090 to the same extent as their principals and perform such other duties as the district attorney may from time to time direct. The appointment of a deputy district attorney must not be construed to confer upon that deputy policymaking authority for the office of the district attorney or the county by which the deputy district attorney is employed.

2. District attorneys are responsible on their official bonds for all official malfeasance or nonfeasance of the deputies. Bonds for the faithful performance of their official duties may be required of deputies by district attorneys.

3. All appointments of deputies under the provisions of this section must be in writing and must, together with the oath of office of the deputies, be

recorded in the office of the recorder of the county within which the district attorney legally holds and exercises his or her office. Revocations of those appointments must also be recorded as provided in this section. From the time of the recording of the appointments or revocations therein, persons shall be deemed to have notice of the appointments or revocations.

4. Deputy district attorneys of counties whose population is less than 100,000 may engage in the private practice of law. In any other county, except as otherwise provided in NRS 7.065 and this subsection, deputy district attorneys shall not engage in the private practice of law. An attorney appointed to prosecute a person for a limited duration with limited jurisdiction may engage in private practice which does not present a conflict with his or her appointment.

5. Any district attorney may, subject to the approval of the board of county commissioners, appoint such clerical, investigational and operational staff as the execution of duties and the operation of his or her office may require. The compensation of any person so appointed must be fixed by the board of county commissioners.

6. In a county whose population is ~~1400,000~~ ~~1100,000~~ 700,000 or more, deputies are governed by the merit personnel system of the county.

Section 46 of Assembly Bill No. 545 is hereby amended as follows:

Sec. 46. NRS 260.040 is hereby amended to read as follows:

260.040 1. The compensation of the public defender must be fixed by the board of county commissioners. The public defender of any two or more counties must be compensated and be permitted private civil practice of the law as determined by the boards of county commissioners of those counties, subject to the provisions of subsection 4 of this section and NRS 7.065.

2. The public defender may appoint as many deputies or assistant attorneys, clerks, investigators, stenographers and other employees as the public defender considers necessary to enable him or her to carry out his or her responsibilities, with the approval of the board of county commissioners. An assistant attorney must be a qualified attorney licensed to practice in this State and may be placed on a part-time or full-time basis. The appointment of a deputy, assistant attorney or other employee pursuant to this subsection must not be construed to confer upon that deputy, assistant attorney or other employee policymaking authority for the office of the public defender or the county or counties by which the deputy, assistant attorney or other employee is employed.

3. The compensation of persons appointed under subsection 2 must be fixed by the board of county commissioners of the county or counties so served.

4. The public defender and his or her deputies and assistant attorneys in a county whose population is less than 100,000 may engage in the private practice of law. Except as otherwise provided in this subsection, in any other county, the public defender and his or her deputies and assistant attorneys shall not engage in the private practice of law except as otherwise provided

in NRS 7.065. An attorney appointed to defend a person for a limited duration with limited jurisdiction may engage in private practice which does not present a conflict with his or her appointment.

5. The board of county commissioners shall provide office space, furniture, equipment and supplies for the use of the public defender suitable for the conduct of the business of his or her office. However, the board of county commissioners may provide for an allowance in place of facilities. Each of those items is a charge against the county in which public defender services are rendered. If the public defender serves more than one county, expenses that are properly allocable to the business of more than one of those counties must be prorated among the counties concerned.

6. In a county whose population is ~~400,000~~ ~~100,000~~ 700,000 or more, deputies are governed by the merit personnel system of the county.

Section 47 of Assembly Bill No. 545 is hereby amended as follows:

Sec. 47. NRS 3.310 is hereby amended to read as follows:

3.310 1. Except as otherwise provided in this subsection, the judge of each district court may appoint a bailiff for the court in counties polling 4,500 or more votes. In counties polling less than 4,500 votes, the judge may appoint a bailiff with the concurrence of the sheriff. Subject to the provisions of subsections 2, 4 and 10, in a county whose population is ~~400,000~~ ~~100,000~~ 700,000 or more, the judge of each district court may appoint a deputy marshal for the court instead of a bailiff. In each case, the bailiff or deputy marshal serves at the pleasure of the judge he or she serves.

2. In all judicial districts where there is more than one judge, there may be a number of bailiffs or deputy marshals at least equal to the number of judges, and in any judicial district where a circuit judge has presided for more than 50 percent of the regular judicial days of the prior calendar year, there may be one additional bailiff or deputy marshal, each bailiff or deputy marshal to be appointed by the joint action of the judges. If the judges cannot agree upon the appointment of any bailiff or deputy marshal within 30 days after a vacancy occurs in the office of bailiff or deputy marshal, then the appointment must be made by a majority of the board of county commissioners.

3. Each bailiff or deputy marshal shall:

- (a) Preserve order in the court.
- (b) Attend upon the jury.
- (c) Open and close court.
- (d) Perform such other duties as may be required of him or her by the judge of the court.

4. The bailiff or deputy marshal must be a qualified elector of the county and shall give a bond, to be approved by the district judge, in the sum of \$2,000, conditioned for the faithful performance of his or her duty.

5. The compensation of each bailiff or deputy marshal for his or her services must be fixed by the board of county commissioners of the county

and his or her salary paid by the county wherein he or she is appointed, the same as the salaries of other county officers are paid.

6. The board of county commissioners of the respective counties shall allow the salary stated in subsection 5 as other salaries are allowed to county officers, and the county auditor shall draw his or her warrant for it, and the county treasurer shall pay it.

7. The provisions of this section do not:

(a) Authorize the bailiff or deputy marshal to serve any civil or criminal process, except such orders of the court which are specially directed by the court or the presiding judge thereof to him or her for service.

(b) Except in a county whose population is ~~400,000~~ ~~100,000~~ 700,000 or more, relieve the sheriff of any duty required of him or her by law to maintain order in the courtroom.

8. If a deputy marshal is appointed for a court pursuant to subsection 1, each session of the court must be attended by the deputy marshal.

9. For good cause shown, a deputy marshal appointed for a court pursuant to subsection 1 may be assigned temporarily to assist other judicial departments or assist with court administration as needed.

10. A person appointed to be a deputy marshal for a court pursuant to subsection 1 must be certified by the Peace Officers' Standards and Training Commission as a category I peace officer not later than 18 months after appointment.

Section 75.5 of Assembly Bill No. 545 is hereby amended as follows:

Sec. 75.5. Chapter 218D of NRS is hereby amended by adding thereto a new section to read as follows:

1. Before changing a classification in a statute based upon population as defined in NRS 0.050, the Legislature shall review the classification, consider the suggestions of all interested persons in the State relating to whether the classification should remain unchanged or be amended, and find that the classification should be amended to a different level. The determination that a classification should be amended must not solely be based upon changes in the population of local governments in this State.

2. In determining whether a classification should be amended, the Legislature shall consider:

(a) The appropriateness of the statute to local governments or other entities of a particular population classification;

(b) Any changes in conditions that are applicable to the affected entities;

(c) Changes in state or federal law other than the law being amended;
and

(d) The testimony of representatives of local governments and other persons indicating a need for and desire to apply the statute to the local government or to exclude the local government from the applicability of the statute.

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

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

Amendment No. 750 to Assembly Bill No. 545 reverts the bill back to its introduced version. This would involve removing the Assembly amendments to Sections 42, 43, 46, and 47; and amends the bill by adding new language to Chapter 218D of the *Nevada Revised Statutes* (NRS) to specify that before changing a classification in a statute based upon population, the Legislature shall review the classification, consider the suggestions of interested persons, and find that the classification should be amended to a different level.

Amendment adopted.

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

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was referred Senate Bill No. 359, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

STEVEN A. HORSFORD, *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 477.

Bill read third time.

Roll call on Senate Bill No. 477:

YEAS—21.

NAYS—None.

Senate Bill No. 477 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 59.

Bill read third time.

Roll call on Assembly Bill No. 59:

YEAS—21.

NAYS—None.

Assembly Bill No. 59 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 77.

Bill read third time.

Roll call on Assembly Bill No. 77:

YEAS—21.

NAYS—None.

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

Bill ordered transmitted to the Assembly.

Assembly Bill No. 282.

Bill read third time.

Roll call on Assembly Bill No. 282:

YEAS—21.

NAYS—None.

Assembly Bill No. 282 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 304.

Bill read third time.

Roll call on Assembly Bill No. 304:

YEAS—13.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, Rhoads, Roberson, Settelmeyer—8.

Assembly Bill No. 304 having failed to receive a two-thirds majority, Mr. President declared it lost.

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

Senate in recess at 2:41 p.m.

SENATE IN SESSION

At 2:45 p.m.

President Krolicki presiding.

Quorum present.

Assembly Bill No. 309.

Bill read third time.

Remarks by Senator Schneider.

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

Assembly Bill No. 309 creates within the Division of Insurance of the Department of Business and Industry the Office of the Consumer Advocate. The Consumer Advocate, appointed by the Governor, serves as the executive head of the Office, and must intervene in and represent the public interest in all hearings relating to rates or proposed rate increases or decreases for individual health benefit plans and group health plans for small employers.

The measure requires an insurer that offers any health benefit plan to provide in an electronic format to the Consumer Advocate and the Division any proposed rate changes or any other information used to calculate a rate or proposed rate increase or decrease. An insurer must publish on its Internet website the base premiums, certificates of coverage, and actual and projected loss ratios of such health benefit plans offered by the insurer. The Division is required to maintain a link on its Internet website to the insurer's Internet website.

The Commissioner of Insurance is authorized to hold a public hearing before approving or denying a rate or proposed rate increase or decrease to certain health benefit plans and group health plans for certain small employers. Additionally, an insurer, the Consumer Advocate, or a consumer of health insurance may request a public hearing if the proposed rate increase or decrease is more than 10 percent of the current rate, or the health benefit plan represents more than 5 percent of its market segment in this State.

Roll call on Assembly Bill No. 309:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Roberson, Settlemeyer—9.

Assembly Bill No. 309 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 360.

Bill read third time.

Senator Manendo moved that Assembly Bill No. 360 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assembly Bill No. 410.

Bill read third time.

Senator Wiener moved that Assembly Bill No. 410 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assembly Bill No. 459.

Bill read third time.

Roll call on Assembly Bill No. 459:

YEAS—19.

NAYS—Breedon, Hardy—2.

Assembly Bill No. 459 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 478.

Bill read third time.

Roll call on Assembly Bill No. 478:

YEAS—16.

NAYS—Cegavske, Gustavson, Halseth, Roberson, Settlemeyer—5.

Assembly Bill No. 478 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 245.

The following Assembly amendment was read:

Amendment No. 637.

"SUMMARY—Creates the Statewide Alert System for the Safe Return of Missing Endangered Older Persons. (BDR 38-710)"

"AN ACT relating to older persons; creating the Statewide Alert System for the Safe Return of Missing Endangered Older Persons; requiring the

Department of Public Safety to administer and adopt regulations for the System; prescribing the circumstances under which a law enforcement agency may activate the System; providing immunity from civil liability for certain persons who disseminate certain information pursuant to a notification of activation of the System; providing immunity from civil liability for certain persons who enter into agreements with the Department to establish or maintain an Internet website for the System; providing that a person who intentionally makes certain false or misleading statements to cause activation of the System is guilty of a category E felony; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 7 of this bill creates the Statewide Alert System for the Safe Return of Missing Endangered Older Persons, which is composed of a voluntary partnership among the Department of Public Safety, the Department of Transportation, state and local law enforcement agencies, media outlets and other public and private organizations to assist in the search for and safe return of missing endangered older persons. **Section 7** requires the Department of Public Safety to administer the System. **Section 5** of this bill defines the term "missing endangered older person" for the purposes of the System to mean a person who is 60 years of age or older whose whereabouts are unknown and: (1) who has been diagnosed with a medical or mental health condition that places the person in danger of serious physical harm or death; or (2) who is missing under suspicious or unexplained circumstances that place the person in danger of serious physical harm or death. **Section 8** of this bill requires the Department of Public Safety to: (1) adopt regulations governing the operation of the System; (2) develop a plan for carrying out the System which sets forth the components of the System; (3) oversee the System; (4) supervise and evaluate any training associated with the System; (5) monitor, review and evaluate the activations of the System for compliance with the provisions of this bill; and (6) conduct periodic tests of the System. **Section 9** of this bill prescribes the circumstances under which a law enforcement agency may activate the System. **Section 10** of this bill provides immunity from civil liability for a media outlet or a public or private organization that participates in the System and any person working for the media outlet or public or private organization who disseminates certain information pursuant to a notification of activation of the System and for a person who enters into an agreement with the Department of Public Safety to establish or maintain a website for the System if the agreement provides that only the law enforcement agency activating the System has the authority or ability to place information on the website.

Existing law provides that a person who intentionally makes any false or misleading statement to cause the activation of the "Amber Alert" system is guilty of a category E felony. (NRS 207.285) **Section 11** of this bill provides the same penalty for a person who intentionally makes any false or

misleading statement to cause the activation of the System created by this bill.

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

Section 1. Chapter 427A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. (Deleted by amendment.)

Sec. 4. *"Department" means the Department of Public Safety.*

Sec. 4.5. *"Media outlet" means a company or other similar entity that transmits news, feature stories, entertainment or other information to the public through various distribution channels, including, without limitation, newspapers, magazines, radio, broadcast, cable and satellite television and electronic media.*

Sec. 5. *"Missing endangered older person" means a person who is 60 years of age or older whose whereabouts are unknown and who:*

1. Has been diagnosed with a medical or mental health condition that places the person in danger of serious physical harm or death; or

2. Is missing under suspicious or unexplained circumstances that place the person in danger of serious physical harm or death.

Sec. 6. *"System" means the Statewide Alert System for the Safe Return of Missing Endangered Older Persons created by section 7 of this act.*

Sec. 7. 1. *There is hereby created the Statewide Alert System for the Safe Return of Missing Endangered Older Persons, which is composed of a voluntary partnership among the Department of Public Safety, the Department of Transportation, state law enforcement agencies, local law enforcement agencies, media outlets and other public or private organizations to assist in the search for and safe return of missing endangered older persons. The Department of Public Safety shall administer the System within the limits of available money.*

2. Each law enforcement agency, media outlet and public or private organization that chooses to participate in the System shall comply with the provisions of sections 2 to 10, inclusive, of this act and any requirements prescribed by the Department for participation in the System.

3. Each law enforcement agency that chooses to participate in the System shall:

(a) Adopt a written policy concerning activation of the System by the agency that is consistent with the provisions of sections 2 to 10, inclusive, of this act and the regulations adopted by the Department pursuant to section 8 of this act; and

(b) Submit a copy of the written policy to the Department.

Sec. 8. 1. *The Department shall:*

- (a) Develop a plan for carrying out the System which includes the components of the System;*
- (b) Oversee the System;*
- (c) Supervise and evaluate any training associated with the System;*
- (d) Monitor, review and evaluate the activations of the System to determine whether such activations complied with the provisions of sections 2 to 10, inclusive, of this act; and*
- (e) Conduct periodic tests of the System.*

2. The Department may:

- (a) Dedicate the System to one or more persons;*
- (b) Establish a name for the System that is in addition to the definition set forth in section 6 of this act;*
- (c) Identify and apply for federal funding available to carry out the provisions of sections 2 to 10, inclusive, of this act; and*
- (d) Accept gifts, grants and donations for use in carrying out the provisions of sections 2 to 10, inclusive, of this act.*

3. The Department shall, in consultation with representatives of the Department of Transportation, the Nevada Sheriffs' and Chiefs' Association, the Nevada Broadcasters Association, media outlets that participate in the System and any other public or private organization that participates in the System, adopt regulations to carry out the provisions of sections 2 to 10, inclusive, of this act.

Sec. 9. 1. A law enforcement agency which has jurisdiction over the investigation of a missing endangered older person may activate the System to disseminate a notice on behalf of the missing endangered older person if the law enforcement agency has:

(a) Confirmed that the whereabouts of the missing endangered older person are unknown;

(b) Confirmed either that the missing endangered older person:

(1) Has been diagnosed with a medical or mental health condition that places the missing endangered older person in danger of serious physical harm or death; or

(2) Is missing under suspicious or unexplained circumstances that place the person in danger of serious physical harm or death; and

(c) Received sufficient descriptive information about the missing endangered older person or other pertinent information to warrant dissemination of the information.

2. Before activation of the System on behalf of a missing endangered older person, the law enforcement agency shall determine whether the dissemination of information will encompass:

(a) A particular neighborhood, city, county, region or state; or

(b) More than one neighborhood, city, county, region or state.

3. A law enforcement agency is not required to obtain the prior consent of the Department before activating the System, but the Department may review an activation of the System after the activation is complete.

4. A law enforcement agency that activates the System shall notify the Department and all participating members of the System upon cancellation of the activation and shall report the final disposition of the search for the missing endangered older person to the Department.

Sec. 10. 1. If a media outlet or any other public or private organization that participates in the System receives a notification of activation of the System by a law enforcement agency concerning a missing endangered older person and as a result of that notification disseminates descriptive information concerning the missing endangered older person and other information contained in the notification to assist with the safe return of the missing endangered older person, the media outlet, public or private organization and any person working for the media outlet or public or private organization is immune from civil liability ~~for any act reasonably related to~~ based upon the dissemination of that information.

2. If a person enters into an agreement with the Department to establish or maintain an Internet website for the System and the agreement provides that only the law enforcement agency activating the System has the authority or ability to place information on the website, the person who establishes or maintains the Internet website is immune from civil liability in any action based upon the information that is placed on the Internet website by the authorized law enforcement agency.

Sec. 11. NRS 207.285 is hereby amended to read as follows:

207.285 1. A person who intentionally makes any false or misleading statement, including, without limitation, any statement that conceals facts, omits facts or contains false or misleading information concerning any material fact, to any police officer, sheriff, district attorney, deputy sheriff, deputy district attorney or member of the Department of Public Safety to cause the ~~System~~ **Statewide Alert System for the Safe Return of Abducted Children created by NRS 432.340 or the Statewide Alert System for the Safe Return of Missing Endangered Older Persons created by section 7 of this act** to be activated is guilty of a category E felony and shall be punished as provided in NRS 193.130.

2. The Attorney General or the district attorney of the county in which a person made a false or misleading statement may investigate and prosecute any violation of the provisions of this section.

~~3. As used in this section, "System" means the Statewide Alert System for the Safe Return of Abducted Children created by NRS 432.340.~~

Sec. 12. The Department of Public Safety shall adopt the regulations required by section 8 of this act on or before December 31, 2011.

Sec. 13. This act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.

Senator Copening moved that the Senate concur in the Assembly amendment to Senate Bill No. 245.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 264.

The following Assembly amendment was read:

Amendment No. 636.

"SUMMARY—Revises provisions concerning the regulation of certain medical facilities. (BDR 40-15)"

"AN ACT relating to public health; revising requirements for various reports concerning the care provided by certain medical and related facilities; revising provisions relating to administrative fines collected by the Health Division of the Department of Health and Human Services; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain medical facilities to submit to the Health Division of the Department of Health and Human Services reports of sentinel events. (NRS 439.835) The term "sentinel event" is defined for the purposes of these reports to mean an unexpected occurrence at the facility which involves facility-acquired infection, death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of a serious adverse outcome. (NRS 439.830) The Health Division is required to prepare annual reports concerning those reports which were submitted by medical facilities located in a county whose population is 100,000 or more (currently Clark and Washoe Counties). (NRS 439.840) **Section 5** of this bill requires the Health Division to prepare such annual reports for medical facilities in every county and to make those reports available on the Department's website. **Section 5** also requires the Health Division to report that information publicly in a format which allows for comparisons of medical facilities.

Existing law requires medical facilities which provide care to 25 or more patients per day to submit information to the Internet-based surveillance system established and maintained by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services and requires the Health Division to analyze that information. (NRS 439.847) **Section 9** of this bill requires the Health Division to report that information publicly in a format which allows for comparisons of medical facilities.

Sections 15.3-17 of this bill require hospitals to submit, as part of the program to increase public awareness of health care information concerning hospitals, data relating to the readmission of a patient if the readmission was potentially preventable and clinically related to the initial admission of the patient. **Section 20** of this bill requires the Department of Health and Human Services to post that information on an Internet website. **Section 16** also authorizes the Department to report certain information concerning the quality of care provided by hospitals if it can be determined from reports

already submitted to the Department. Existing law authorizes the Department to seek injunctive relief or civil penalties against facilities that violate the reporting requirements. (NRS 439A.300, 439A.310)

Sections 21, 22, 24 and 25 of this bill authorize the Health Division to use money which is collected as administrative penalties to administer and carry out the provisions of chapter 449 of NRS and to protect the health and property of the patients and residents of facilities.

Section 35 of this bill repeals NRS 439.825 and 439.850.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 439.840 is hereby amended to read as follows:

439.840 1. The Health Division shall:

(a) Collect and maintain reports received pursuant to NRS 439.835 and 439.843 and any additional information requested by the Health Division pursuant to NRS 439.841;

(b) Ensure that such reports, and any additional documents created from such reports, are protected adequately from fire, theft, loss, destruction and other hazards and from unauthorized access;

(c) Annually prepare a report of sentinel events reported pursuant to NRS 439.835 by a medical facility, ~~located in a county whose population is 100,000 or more,~~ including, without limitation, the type of event, the number of events, *the rate of occurrence of events*, and the medical facility which reported the event ~~†~~, *and provide the report for inclusion on the Internet website maintained pursuant to NRS 439A.270;* and

(d) Annually prepare a summary of the reports received pursuant to NRS 439.835 and provide a summary for inclusion on the Internet website maintained pursuant to NRS 439A.270. The Health Division shall maintain the confidentiality of the *patient, the provider of health care or other member of the staff of the medical facility identified in the* reports submitted pursuant to NRS 439.835 when preparing the annual summary pursuant to this paragraph.

2. Except as otherwise provided in this section and NRS 239.0115, reports received pursuant to NRS 439.835 and subsection 1 of NRS 439.843 and any additional information requested by the Health Division pursuant to NRS 439.841 are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

3. *The report prepared pursuant to paragraph (c) of subsection 1 must provide to the public information concerning each medical facility which provided medical services and care in the immediately preceding calendar year and must:*

(a) Be presented in a manner that allows a person to view and compare the information for the medical facilities;

(b) Be readily accessible and understandable by a member of the general public;

(c) Use standard statistical methodology, including without limitation, risk-adjusted methodology when applicable, and include the description of the methodology and data limitations contained in the report;

(d) Not identify a patient, provider of health care or other member of the staff of the medical facility; and

(e) Not be reported for a medical facility if reporting the data would risk identifying a patient. ~~f; and~~

~~*(f) Not include data concerning sentinel events that occurred before October 1, 2010, unless the medical facility allows the Health Division access to data from before that date.*~~

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 439.843 is hereby amended to read as follows:

439.843 1. On or before March 1 of each year, each medical facility shall provide to the Health Division, in the form prescribed by the State Board of Health, a summary of the reports submitted by the medical facility pursuant to NRS 439.835 during the immediately preceding calendar year. The summary must include, without limitation:

(a) The total number and types of sentinel events reported by the medical facility, if any;

(b) A copy of the patient safety plan established pursuant to NRS 439.865;

(c) A summary of the membership and activities of the patient safety committee established pursuant to NRS 439.875; and

(d) Any other information required by the State Board of Health concerning the reports submitted by the medical facility pursuant to NRS 439.835.

2. On or before June 1 of each year, the Health Division shall submit to the State Board of Health an annual summary of the reports and information received by the Health Division pursuant to this section. The annual summary must include, without limitation, a compilation of the information submitted pursuant to subsection 1 and any other pertinent information deemed necessary by the State Board of Health concerning the reports submitted by the medical facility pursuant to NRS 439.835. The Health Division shall maintain the confidentiality of the *patient, the provider of health care or other member of the staff of the medical facility identified in the* reports submitted pursuant to NRS 439.835 and any other *identifying information of a person* requested by the State Board of Health concerning those reports when preparing the annual summary pursuant to this section.

Sec. 8. NRS 439.845 is hereby amended to read as follows:

439.845 1. The Health Division shall analyze and report trends regarding sentinel events.

2. When the Health Division receives notice from a medical facility that the medical facility has taken corrective action to remedy the causes or contributing factors, or both, of a sentinel event, the Health Division shall:

- (a) Make a record of the information;
- (b) Ensure that the information is ~~aggregated~~ **released in a manner** so as not to reveal the identity of a specific ~~person or medical facility;~~ **patient, provider of health care or member of the staff of the facility;** and
- (c) At least quarterly, report its findings regarding the analysis of ~~aggregated~~ trends of sentinel events ~~to the Repository for Health Care Quality Assurance;~~ **on the Internet website maintained pursuant to NRS 439A.270.**

Sec. 9. NRS 439.847 is hereby amended to read as follows:

439.847 1. Each medical facility which provided medical services and care to an average of 25 or more patients during each business day in the immediately preceding calendar year shall, within 120 days after becoming eligible, participate in the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services that integrates patient and health care personnel safety surveillance systems. As part of that participation, the medical facility shall provide, at a minimum, the information required by the Health Division pursuant to this subsection. The Health Division shall by regulation prescribe the information which must be provided by a medical facility, including, without limitation, information relating to infections and procedures.

2. Each medical facility which provided medical services and care to an average of less than 25 patients during each business day in the immediately preceding calendar year may participate in the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services that integrates patient and health care personnel safety surveillance systems.

3. A medical facility that participates in the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion shall ~~authorize~~ :

(a) Authorize the Health Division to access all information submitted to the system ~~;~~ ~~and the Health Division shall enter into an agreement with the Division of Healthcare Quality Promotion to carry out the provisions of this section.~~ **; and**

(b) Provide consent for the Health Division to include information submitted to the system in the reports posted pursuant to paragraph (b) of subsection 4, including without limitation, permission to identify the medical facility that is the subject of each report.

4. The Health Division shall ~~analyze~~ :

(a) *Analyze* the information submitted to the system by medical facilities pursuant to this section and recommend regulations and legislation relating to the reporting required pursuant to NRS 439.800 to 439.890, inclusive.

(b) *Annually prepare a report of the information submitted to the system by each medical facility pursuant to this section and provide the reports for inclusion on the Internet website maintained pursuant to NRS 439A.270. The information must be reported in a manner that allows a person to compare the information for the medical facilities ~~for~~ and expressed as a total number and a rate of occurrence.*

(c) *Enter into an agreement with the Division of Healthcare Quality Promotion to carry out the provisions of this section.*

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 15.3. Chapter 439A of NRS is hereby amended by adding thereto a new section to read as follows:

"Potentially preventable readmission" means an unplanned readmission of a patient which:

1. *Occurs not more than 30 days after the patient is discharged;*
2. *Is clinically related to the initial admission; and*
3. *Was preventable.*

Sec. 15.7. NRS 439A.200 is hereby amended to read as follows:

439A.200 As used in NRS 439A.200 to 439A.290, inclusive, *and section 15.3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 439A.205 and 439A.210 *and section 15.3 of this act* have the meanings ascribed to them in those sections.

Sec. 16. NRS 439A.220 is hereby amended to read as follows:

439A.220 1. The Department shall establish and maintain a program to increase public awareness of health care information concerning the hospitals in this State. The program must be designed to assist consumers with comparing the quality of care provided by the hospitals in this State and the charges for that care.

2. The program must include, without limitation, the collection, maintenance and provision of information concerning:

(a) Inpatients and outpatients of each hospital in this State as reported in the forms submitted pursuant to NRS 449.485;

(b) The quality of care provided by each hospital in this State as determined by applying ~~uniform~~ measures of quality ~~prescribed by the Department pursuant to NRS 439A.230;~~

~~(c) The quality of care provided by each hospital in this State as determined by applying measures of quality endorsed by the entities described in subparagraph (1) of paragraph (b) of subsection 1 of~~

NRS 439A.230, expressed as a number of events and rate of occurrence, if such measures can be applied to the information reported in the forms submitted pursuant to NRS 449.485;

~~(a)~~ ***(c)*** How consistently each hospital follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients;

(d) ~~(e)~~ For each hospital, the total number of patients discharged, the average length of stay and the average billed charges, reported ~~for the 50 most frequent~~ by diagnosis-related groups for inpatients and ***for the 50*** medical treatments for outpatients that the Department determines are most useful for consumers; ~~and~~

(e) ~~(f)~~ ***The total number of patients discharged from the hospital and the total number of potentially preventable readmissions, which must be expressed as a total number and a rate of occurrence of potentially preventable readmissions, and the average length of stay and the average billed charges for those potentially preventable readmissions; and***

~~(g)~~ ***(f)*** Any other information relating to the charges imposed and the quality of the services provided by the hospitals in this State which the Department determines is:

- (1) Useful to consumers;
- (2) Nationally recognized; and
- (3) Reported in a standard and reliable manner.

3. As used in this section, "diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Sec. 17. NRS 439A.230 is hereby amended to read as follows:

439A.230 1. The Department shall, by regulation:

(a) Prescribe the information that each hospital in this State must submit to the Department for the program established pursuant to NRS 439A.220.

(b) Prescribe the measures of quality for hospitals that are required pursuant to paragraph (b) of subsection 2 of NRS 439A.220. In adopting the regulations, the Department shall:

(1) Use the measures of quality endorsed by the Agency for Healthcare Research and Quality, the National Quality Forum, Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services, a quality improvement organization of the Centers for Medicare and Medicaid Services and the Joint Commission ; ~~on Accreditation of Healthcare Organizations;~~

(2) Prescribe a reasonable number of measures of quality which must not be unduly burdensome on the hospitals; and

(3) Take into consideration the financial burden placed on the hospitals to comply with the regulations.

➔ The measures prescribed pursuant to this paragraph must report health outcomes of hospitals, which do not necessarily correlate with the inpatient

diagnosis-related groups or the outpatient treatments that are posted on the Internet website pursuant to NRS 439A.270.

(c) *Prescribe the manner in which a hospital must determine whether the readmission of a patient must be reported pursuant to NRS 439A.220 as a potentially preventable readmission and the form for submission of such information.*

(d) Require each hospital to:

(1) Provide the information prescribed in paragraphs (a) , ~~and~~ (b) **and (c)** in the format required by the Department; and

(2) Report the information separately for inpatients and outpatients.

2. The information required pursuant to this section and NRS 439A.220 must be submitted to the Department not later than 45 days after the last day of each calendar month.

3. If a hospital fails to submit the information required pursuant to this section or NRS 439A.220 or submits information that is incomplete or inaccurate, the Department shall send a notice of such failure to the hospital and to the Health Division of the Department.

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. NRS 439A.270 is hereby amended to read as follows:

439A.270 1. The Department shall establish and maintain an Internet website that includes the information concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State as required by the programs established pursuant to NRS 439A.220 and 439A.240. The information must:

(a) Include, for each hospital in this State, the ~~total~~ :

(1) *Total* number of patients discharged, the average length of stay and the average billed charges, reported for the ~~150 most frequent~~ diagnosis-related groups for inpatients and ***the 50 most frequent*** medical treatments for outpatients that the Department determines are most useful for consumers; ***and***

(2) *Total number of potentially preventable readmissions reported pursuant to NRS 439A.220, the rate of occurrence of potentially preventable readmissions, and the average length of stay and average billed charges of those potentially preventable readmissions, reported by the diagnosis-related group for inpatients for which the patient originally received treatment at ~~the~~ a hospital;*

(b) Include, for each surgical center for ambulatory patients in this State, the total number of patients discharged and the average billed charges, reported for 50 medical treatments for outpatients that the Department determines are most useful for consumers;

(c) Be presented in a manner that allows a person to view and compare the information for the hospitals by:

(1) Geographic location of each hospital;

(2) Type of medical diagnosis; and

- (3) Type of medical treatment;
 - (d) Be presented in a manner that allows a person to view and compare the information for the surgical centers for ambulatory patients by:
 - (1) Geographic location of each surgical center for ambulatory patients;
 - (2) Type of medical diagnosis; and
 - (3) Type of medical treatment;
 - (e) Be presented in a manner that allows a person to view and compare the information separately for:
 - (1) The inpatients and outpatients of each hospital; and
 - (2) The outpatients of each surgical center for ambulatory patients;
 - (f) Be readily accessible and understandable by a member of the general public;
 - (g) ***Include the annual summary of reports of sentinel events prepared pursuant to paragraph (c) of subsection 1 of NRS 439.840;***
 - (h) Include the annual summary of reports of sentinel events prepared pursuant to paragraph (d) of subsection 1 of NRS 439.840; ~~and~~
 - ~~(h)~~ (i) ***Include the reports of information prepared for each medical facility pursuant to paragraph (b) of subsection 4 of NRS 439.847; and***
 - (j) Provide any other information relating to the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State which the Department determines is:
 - (1) Useful to consumers;
 - (2) Nationally recognized; and
 - (3) Reported in a standard and reliable manner.
2. The Department shall:
- (a) Publicize the availability of the Internet website;
 - (b) Update the information contained on the Internet website at least quarterly;
 - (c) Ensure that the information contained on the Internet website is accurate and reliable;
 - (d) Ensure that the information contained on the Internet website is aggregated so as not to reveal the identity of a specific inpatient or outpatient of a hospital;
 - (e) Post a disclaimer on the Internet website indicating that the information contained on the website is provided to assist with the comparison of hospitals and is not a guarantee by the Department or its employees as to the charges imposed by the hospitals in this State or the quality of the services provided by the hospitals in this State, including, without limitation, an explanation that the actual amount charged to a person by a particular hospital may not be the same charge as posted on the website for that hospital;
 - (f) Provide on the Internet website established pursuant to this section a link to the Internet website of the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services; and

(g) Upon request, make the information that is contained on the Internet website available in printed form.

3. As used in this section, "diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Sec. 21. NRS 449.0305 is hereby amended to read as follows:

449.0305 1. Except as otherwise provided in subsection 5, a person must obtain a license from the Board to operate a business that provides referrals to residential facilities for groups.

2. The Board shall adopt:

(a) Standards for the licensing of businesses that provide referrals to residential facilities for groups;

(b) Standards relating to the fees charged by such businesses;

(c) Regulations governing the licensing of such businesses; and

(d) Regulations establishing requirements for training the employees of such businesses.

3. A licensed nurse, social worker, physician or hospital, or a provider of geriatric care who is licensed as a nurse or social worker, may provide referrals to residential facilities for groups through a business that is licensed pursuant to this section. The Board may, by regulation, authorize a public guardian or any other person it determines appropriate to provide referrals to residential facilities for groups through a business that is licensed pursuant to this section.

4. A business that is licensed pursuant to this section or an employee of such a business shall not:

(a) Refer a person to a residential facility for groups that is not licensed.

(b) Refer a person to a residential facility for groups that is owned by the same person who owns the business.

↪ A person who violates the provisions of this subsection is liable for a civil penalty to be recovered by the Attorney General in the name of the State Board of Health for the first offense of not more than \$10,000 and for a second or subsequent offense of not less than \$10,000 nor more than \$20,000. Unless otherwise required by federal law, the State Board of Health shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used ~~for the enforcement of this section and the protection of~~ **to administer and carry out the provisions of this chapter and to protect the health, safety, well-being and property of the patients and residents of residential facilities for groups in accordance with applicable state and federal standards.**

5. This section does not apply to a medical facility that is licensed pursuant to NRS 449.001 to 449.240, inclusive, on October 1, 1999.

Sec. 22. 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, 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, 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 **administer and carry out the provisions of this chapter and to** protect the health ~~of~~, **safety, well-being and** property of the **patients and** residents of ~~the facility~~ **facilities** in accordance with applicable **state and** federal standards.

Sec. 23. (Deleted by amendment.)

Sec. 24. NRS 449.210 is hereby amended to read as follows:

449.210 1. Except as otherwise provided in subsection 2 and NRS 449.24897, a person who operates a medical facility or facility for the dependent without a license issued by the Health Division is guilty of a misdemeanor.

2. A person who operates a residential facility for groups without a license issued by the Health Division:

(a) Is liable for a civil penalty to be recovered by the Attorney General in the name of the Health Division for the first offense of not more than \$10,000 and for a second or subsequent offense of not less than \$10,000 or more than \$20,000;

(b) Shall move all of the persons who are receiving services in the residential facility for groups to a residential facility for groups that is licensed at his or her own expense; and

(c) May not apply for a license to operate a residential facility for groups for a period of 6 months after the person is punished pursuant to this section.

3. Unless otherwise required by federal law, the Health Division shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used ~~for the protection of~~ **to administer and carry out the provisions of this chapter and to protect** the health, safety, ~~and~~ well-being **and property** of *the* patients ~~including~~ **and** residents of ~~residential~~ facilities ~~for groups~~ **in accordance with applicable state and federal standards.**

Sec. 25. NRS 449.2496 is hereby amended to read as follows:

449.2496 1. A person who operates or maintains a home for individual residential care without a license issued by the Health Division pursuant to NRS 449.249 is liable for a civil penalty, to be recovered by the Attorney General in the name of the Health Division, for the first offense of \$10,000 and for a second or subsequent offense of not less than \$10,000 nor more than \$20,000.

2. Unless otherwise required by federal law, the Health Division shall deposit civil penalties collected pursuant to this section into a separate account in the State General Fund ~~in the State Treasury~~ to be used ~~for the protection of~~ **to administer and carry out the provisions of this chapter and to protect** the health, safety, well-being and property of *the* patients ~~including~~ **and** residents of facilities ~~found deficient by the Health Division~~ **in accordance with applicable state and federal standards.**

3. A person against whom a civil penalty is assessed by the court pursuant to subsection 1:

(a) Shall move, at that person's own expense, all persons receiving services in the home for individual residential care to a licensed home for individual residential care.

(b) May not apply for a license to operate a home for individual residential care until 6 months have elapsed since the penalty was assessed.

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. NRS 439.825 and 439.850 are hereby repealed.

Sec. 36. (Deleted by amendment.)

Sec. 37. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTIONS

439.825 "Repository" defined. "Repository" means the Repository for Health Care Quality Assurance created by NRS 439.850.

439.850 Repository for Health Care Quality Assurance: Creation; function.

1. The Repository for Health Care Quality Assurance is hereby created within the Health Division.

2. The Repository shall, to the extent of legislative appropriation and authorization, function as a clearinghouse of information relating to aggregated trends of sentinel events.

Senator Copening moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 264.

Motion carried.

Bill ordered transmitted to the Assembly.

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

Senate in recess at 2:57 p.m.

SENATE IN SESSION

At 3:15 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Government Affairs, to which was re-referred Senate Bill No. 271, 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*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Lee moved that Senate Bill No. 271 be placed on the Second Reading File.

Motion carried.

Senator Horsford moved that Senate Bill No. 359 be placed on the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 271.

Bill read second time.

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

Amendment No. 802.

"SUMMARY—Provides for withdrawal of the State of Nevada from the Tahoe Regional Planning Compact ~~if~~ **under certain circumstances.** (BDR 22-988)"

"AN ACT relating to land use planning; providing for the withdrawal of the State of Nevada from the Tahoe Regional Planning Compact ~~if~~ **under certain circumstances;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the Tahoe Regional Planning Compact, an interstate agreement between the States of California and Nevada pursuant to which the bistate Tahoe Regional Planning Agency regulates environmental and land-use matters within the Lake Tahoe Basin. (NRS 277.190-277.220) Existing law also provides that if either State withdraws from the Compact, the Nevada Tahoe Regional Planning Agency shall assume the duties and powers of regulating environmental and land-use matters on this State's side of the Lake Tahoe Basin. (NRS 278.826)

This bill provides for the withdrawal of Nevada from the Tahoe Regional Planning Compact ~~if, thus causing,~~ **unless the governing body of the Tahoe Regional Planning Agency adopts an updated Regional Plan and certain proposed amendments to the Compact are approved pursuant to Public Law 96-551. The proposed amendments to the Compact are: (1) the removal of the supermajority requirement for the governing body of the Agency to establish a quorum; (2) the removal of the supermajority requirement for voting by the governing body; (3) a requirement that the governing body of the Agency consider the changing economic conditions of the Lake Tahoe Basin and amend the Regional Plan, accordingly; and (4) the addition of a provision to the Compact which sets forth that any person who legally challenges the Regional Plan has the burden of proving the Regional Plan does not comply with the provisions of the Compact. If the Agency does not adopt an updated Regional Plan and the proposed amendments are not approved by October 1, 2014, Nevada's withdrawal from the Compact will become effective on that date unless the Governor issues a proclamation extending the deadline for withdrawal until October 1, 2017.**

This bill also requires the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System to prepare a report detailing certain issues related to Nevada withdrawing from the Compact.

This bill provides that if Nevada withdraws from the Compact, the Nevada Tahoe Regional Planning Agency ~~if~~ **will assume the duties and powers currently held by the bistate Agency** for the portion of the Lake Tahoe Basin within this State. ~~if, to assume the duties and powers currently~~

~~held by the bistate Tahoe Regional Planning Agency.~~ This bill also establishes temporary measures to ensure that the Nevada Tahoe Regional Planning Agency is able to assume those duties and powers in an orderly manner.

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

Section 1. The State of Nevada hereby withdraws from the Tahoe Regional Planning Compact pursuant to the provisions of subdivision (c) of Article X of the Tahoe Regional Planning Compact.

Sec. 1.5. NRS 277.200 is hereby amended to read as follows:

277.200 The Tahoe Regional Planning Compact is as follows:

Tahoe Regional Planning Compact

ARTICLE I. Findings and Declarations of Policy

(a) It is found and declared that:

(1) The waters of Lake Tahoe and other resources of the region are threatened with deterioration or degeneration, which endangers the natural beauty and economic productivity of the region.

(2) The public and private interests and investments in the region are substantial.

(3) The region exhibits unique environmental and ecological values which are irreplaceable.

(4) By virtue of the special conditions and circumstances of the region's natural ecology, developmental pattern, population distribution and human needs, the region is experiencing problems of resource use and deficiencies of environmental control.

(5) Increasing urbanization is threatening the ecological values of the region and threatening the public opportunities for use of the public lands.

(6) Maintenance of the social and economic health of the region depends on maintaining the significant scenic, recreational, educational, scientific, natural and public health values provided by the Lake Tahoe Basin.

(7) There is a public interest in protecting, preserving and enhancing these values for the residents of the region and for visitors to the region.

(8) Responsibilities for providing recreational and scientific opportunities, preserving scenic and natural areas, and safeguarding the public who live, work and play in or visit the region are divided among local governments, regional agencies, the states of California and Nevada, and the Federal Government.

(9) In recognition of the public investment and multistate and national significance of the recreational values, the Federal Government has an interest in the acquisition of recreational property and the management of resources in the region to preserve environmental and recreational values, and the Federal Government should assist the states in fulfilling their responsibilities.

(10) In order to preserve the scenic beauty and outdoor recreational opportunities of the region, there is a need to insure an equilibrium between the region's natural endowment and its man-made environment.

(b) In order to enhance the efficiency and governmental effectiveness of the region, it is imperative that there be established a Tahoe Regional Planning Agency with the powers conferred by this compact including the power to establish environmental threshold carrying capacities and to adopt and enforce a regional plan and implementing ordinances which will achieve and maintain such capacities while providing opportunities for orderly growth and development consistent with such capacities.

(c) The Tahoe Regional Planning Agency shall interpret and administer its plans, ordinances, rules and regulations in accordance with the provisions of this compact.

ARTICLE II. Definitions

As used in this compact:

(a) "Region," includes Lake Tahoe, the adjacent parts of Douglas and Washoe counties and Carson City, which for the purposes of this compact shall be deemed a county, lying within the Tahoe Basin in the State of Nevada, and the adjacent parts of the Counties of Placer and El Dorado lying within the Tahoe Basin in the State of California, and that additional and adjacent part of the County of Placer outside of the Tahoe Basin in the State of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of Section 1, thence west to the northwest corner of Section 3, thence south to the intersection of the basin crestline and the west boundary of Section 10; all sections referring to Township 15 North, Range 16 East, M.D.B. & M. The region defined and described herein shall be as precisely delineated on official maps of the agency.

(b) "Agency" means the Tahoe Regional Planning Agency.

(c) "Governing body" means the governing board of the Tahoe Regional Planning Agency.

(d) "Regional plan" means the long-term general plan for the development of the region.

(e) "Planning commission" means the advisory planning commission appointed pursuant to subdivision (h) of Article III.

(f) "Gaming" means to deal, operate, carry on, conduct, maintain or expose for play any banking or percentage game played with cards, dice or any mechanical device or machine for money, property, checks, credit or any representative of value, including, without limiting the generality of the foregoing, faro, monte, roulette, keno, bingo, fantan, twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, stud poker, draw poker or slot machine, but does not include social games played solely for drinks, or cigars or cigarettes served individually, games played in private homes or residences for prizes or games operated by charitable or educational organizations, to the extent excluded by applicable state law.

(g) "Restricted gaming license" means a license to operate not more than 15 slot machines on which a quarterly fee is charged pursuant to NRS 463.373 and no other games.

(h) "Project" means an activity undertaken by any person, including any public agency, if the activity may substantially affect the land, water, air, space or any other natural resources of the region.

(i) "Environmental threshold carrying capacity" means an environmental standard necessary to maintain a significant scenic, recreational, educational, scientific or natural value of the region or to maintain public health and safety within the region. Such standards shall include but not be limited to standards for air quality, water quality, soil conservation, vegetation preservation and noise.

(j) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

(k) "Areas open to public use" means all of the areas within a structure housing gaming under a nonrestricted license except areas devoted to the private use of guests.

(l) "Areas devoted to private use of guests" means hotel rooms and hallways to serve hotel room areas, and any parking areas. A hallway serves hotel room areas if more than 50 percent of the areas on each side of the hallway are hotel rooms.

(m) "Nonrestricted license" means a gaming license which is not a restricted gaming license.

ARTICLE III. Organization

(a) There is created the Tahoe Regional Planning Agency as a separate legal entity.

The governing body of the agency shall be constituted as follows:

(1) California delegation:

(A) One member appointed by each of the County Boards of Supervisors of the Counties of El Dorado and Placer and one member appointed by the City Council of the City of South Lake Tahoe. Any such member may be a member of the county board of supervisors or city council, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) Two members appointed by the Governor of California, one member appointed by the Speaker of the Assembly of California and one member appointed by the Senate Rules Committee of the State of California. The members appointed pursuant to this subparagraph shall not be residents of the region and shall represent the public at large within the State of California.

(2) Nevada delegation:

(A) One member appointed by each of the boards of county commissioners of Douglas and Washoe counties and one member appointed by the board of supervisors of Carson City. Any such member may be a

member of the board of county commissioners or board of supervisors, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) One member appointed by the governor of Nevada, the secretary of state of Nevada or his designee, and the director of the state department of conservation and natural resources of Nevada or his designee. Except for the secretary of state and the director of the state department of conservation and natural resources, the members or designees appointed pursuant to this subparagraph shall not be residents of the region. All members appointed pursuant to this subparagraph shall represent the public at large within the State of Nevada.

(C) One member appointed for a 1-year term by the six other members of the Nevada delegation. If at least four members of the Nevada delegation are unable to agree upon the selection of a seventh member within 60 days after the effective date of the amendments to this compact or the occurrence of a vacancy on the governing body for that state the governor of the State of Nevada shall make such an appointment. The member appointed pursuant to this subparagraph may, but is not required to, be a resident of the region within the State of Nevada.

(3) If any appointing authority under paragraph (1)(A), (1)(B), (2)(A) or (2)(B) fails to make such an appointment within 60 days after the effective date of the amendments to this compact or the occurrence of a vacancy on the governing body, the governor of the state in which the appointing authority is located shall make the appointment. The term of any member so appointed shall be 1 year.

(4) The position of any member of the governing body shall be deemed vacant if such a member is absent from three consecutive meetings of the governing body in any calendar year.

(5) Each member and employee of the agency shall disclose his economic interests in the region within 10 days after taking his seat on the governing board or being employed by the agency and shall thereafter disclose any further economic interest which he acquires, as soon as feasible after he acquires it. As used in this paragraph, "economic interests" means:

(A) Any business entity operating in the region in which the member or employee has a direct or indirect investment worth more than \$1,000;

(B) Any real property located in the region in which the member or employee has a direct or indirect interest worth more than \$1,000;

(C) Any source of income attributable to activities in the region, other than loans by or deposits with a commercial lending institution in the regular course of business, aggregating \$250 or more in value received by or promised to the member within the preceding 12 months; or

(D) Any business entity operating in the region in which the member or employee is a director, officer, partner, trustee, employee or holds any position of management.

↪ No member or employee of the agency shall make, or attempt to influence, an agency decision in which he knows or has reason to know he has an economic interest. Members and employees of the agency must disqualify themselves from making or participating in the making of any decision of the agency when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the economic interests of the member or employee.

(b) The members of the agency shall serve without compensation, but the expenses of each member shall be met by the body which he represents in accordance with the law of that body. All other expenses incurred by the governing body in the course of exercising the powers conferred upon it by this compact unless met in some other manner specifically provided, shall be paid by the agency out of its own funds.

(c) Except for the secretary of state and director of the state department of conservation and natural resources of Nevada and the member appointed pursuant to subdivision (a)(2)(C), the members of the governing body serve at the pleasure of the appointing authority in each case, but each appointment shall be reviewed no less often than every 4 years. Members may be reappointed.

(d) The governing body of the agency shall meet at least monthly. All meetings shall be open to the public to the extent required by the law of the State of California or the State of Nevada, whichever imposes the greater requirement, applicable to local governments at the time such meeting is held. The governing body shall fix a date for its regular monthly meeting in such terms as "the first Monday of each month," and shall not change such date more often than once in any calendar year. Notice of the date so fixed shall be given by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region. Notice of any special meeting, except an emergency meeting, shall be given by so publishing the date and place and posting an agenda at least 5 days prior to the meeting.

(e) The position of a member of the governing body shall be considered vacated upon his loss of any of the qualifications required for his appointment and in such event the appointing authority shall appoint a successor.

(f) The governing body shall elect from its own members a chairman and vice chairman, whose terms of office shall be 2 years, and who may be reelected. If a vacancy occurs in either office, the governing body may fill such vacancy for the unexpired term.

(g) ~~Four~~ **Eight** of the members of the governing body ~~from each state~~ constitute a quorum for the transaction of the business of the agency. ~~The voting procedures shall be as follows:~~, **and the affirmative vote of eight members of the governing body is sufficient for any of the following purposes:**

(1) For adopting, amending or repealing environmental threshold carrying capacities, the regional plan, and ordinances, rules and regulations, and for granting variances from the ordinances, rules and regulations, ~~the vote of at least four of the members of each state agreeing with the vote of at least four members of the other state shall be required to take action. If there is no vote of at least four of the members from one state agreeing with the vote of at least four of the members of the other state on the actions specified in this paragraph, an action of rejection shall be deemed to have been taken.~~

(2) For approving a project, ~~the affirmative vote of at least five members from the state in which the project is located and the affirmative vote of at least nine members of the governing body are required. If at least five members of the governing body from the state in which the project is located and at least nine members of the entire governing body do not vote in favor of the project, upon a motion for approval, an action of rejection shall be deemed to have been taken.~~ A decision by the agency to approve a project shall be supported by a statement of findings, adopted by the agency, which indicates that the project complies with the regional plan and with applicable ordinances, rules and regulations of the agency.

(3) For routine business and for directing the agency's staff on litigation and enforcement actions, ~~at least eight members of the governing body must agree to take action. If at least eight votes in favor of such action are not cast, an action of rejection shall be deemed to have been taken.~~

↪ Whenever under the provisions of this compact or any ordinance, rule, regulation or policy adopted pursuant thereto, the agency is required to review or approve any project, public or private, the agency shall take final action by vote, whether to approve, to require modification or to reject such project, within 180 days after the application for such project is accepted as complete by the agency in compliance with the agency's rules and regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If a final action by vote does not take place within 180 days, the applicant may bring an action in a court of competent jurisdiction to compel a vote unless he has agreed to an extension. This provision does not limit the right of any person to obtain judicial review of agency action under subdivision (h) of Article VI. The vote of each member of the governing body shall be individually recorded. The governing body shall adopt its own rules, regulations and procedures.

(h) An advisory planning commission shall be appointed by the agency. The commission shall include: the chief planning officers of Placer County, El Dorado County, and the City of South Lake Tahoe in California and of Douglas County, Washoe County and Carson City in Nevada, the executive officer of the Lahontan Regional Water Quality Control Board of the State of California, the executive officer of the Air Resources Board of the State of California, the director of the state department of conservation and natural resources of the State of Nevada, the administrator of the division of environmental protection in the state department of conservation and natural

resources of the State of Nevada, the administrator of the Lake Tahoe Management Unit of the United States Forest Service, and at least four lay members with an equal number from each state, at least half of whom shall be residents of the region. Any official member may designate an alternate.

The term of office of each lay member of the advisory planning commission shall be 2 years. Members may be reappointed.

The position of each member of the advisory planning commission shall be considered vacated upon loss of any of the qualifications required for appointment, and in such an event the appointing authority shall appoint a successor.

The advisory planning commission shall elect from its own members a chairman and a vice chairman, whose terms of office shall be 2 years and who may be reelected. If a vacancy occurs in either office, the advisory planning commission shall fill such vacancy for the unexpired term.

A majority of the members of the advisory planning commission constitutes a quorum for the transaction of the business of the commission. A majority vote of the quorum present shall be required to take action with respect to any matter.

(i) The agency shall establish and maintain an office within the region, and for this purpose the agency may rent or own property and equipment. Every plan, ordinance and other record of the agency which is of such nature as to constitute a public record under the law of either the State of California or the State of Nevada shall be open to inspection and copying during regular office hours.

(j) Each authority charged under this compact or by the law of either state with the duty of appointing a member of the governing body of the agency shall by certified copy of its resolution or other action notify the Secretary of State of its own state of the action taken.

ARTICLE IV. Personnel

(a) The governing body shall determine the qualification of, and it shall appoint and fix the salary of, the executive officer of the agency, and shall employ such other staff and legal counsel as may be necessary to execute the powers and functions provided for under this compact or in accordance with any intergovernmental contracts or agreements the agency may be responsible for administering.

(b) Agency personnel standards and regulations shall conform insofar as possible to the regulations and procedures of the civil service of the State of California or the State of Nevada, as may be determined by the governing body of the agency; and shall be regional and bistate in application and effect; provided that the governing body may, for administrative convenience and at its discretion, assign the administration of designated personnel arrangements to an agency of either state, and provided that administratively convenient adjustments be made in the standards and regulations governing personnel assigned under intergovernmental agreements.

(c) The agency may establish and maintain or participate in such additional programs of employee benefits as may be appropriate to afford employees of the agency terms and conditions of employment similar to those enjoyed by employees of California and Nevada generally.

ARTICLE V. Planning

(a) In preparing each of the plans required by this article and each amendment thereto, if any, subsequent to its adoption, the planning commission after due notice shall hold at least one public hearing which may be continued from time to time, and shall review the testimony and any written recommendations presented at such hearing before recommending the plan or amendment. The notice required by this subdivision shall be given at least 20 days prior to the public hearing by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region.

The planning commission shall then recommend such plan or amendment to the governing body for adoption by ordinance. The governing body may adopt, modify or reject the proposed plan or amendment, or may initiate and adopt a plan or amendment without referring it to the planning commission. If the governing body initiates or substantially modifies a plan or amendment, it shall hold at least one public hearing thereon after due notice as required in this subdivision.

If a request is made for the amendment of the regional plan by:

(1) A political subdivision a part of whose territory would be affected by such amendment; or

(2) The owner or lessee of real property which would be affected by such amendment,

↳ the governing body shall complete its action on such amendment within 180 days after such request is accepted as complete according to standards which must be prescribed by ordinance of the agency.

(b) The agency shall develop, in cooperation with the states of California and Nevada, environmental threshold carrying capacities for the region. The agency should request the President's Council on Environmental Quality, the United States Forest Service and other appropriate agencies to assist in developing such environmental threshold carrying capacities. Within 18 months after the effective date of the amendments to this compact, the agency shall adopt environmental threshold carrying capacities for the region.

(c) Within 1 year after the adoption of the environmental threshold carrying capacities for the region, the agency shall amend the regional plan so that, at a minimum, the plan and all of its elements, as implemented through agency ordinances, rules and regulations, achieves and maintains the adopted environmental threshold carrying capacities. Each element of the plan shall contain implementation provisions and time schedules for such implementation by ordinance. The planning commission and governing body

shall continuously review and maintain the regional plan ~~+~~ **and, in so doing, shall ensure that the regional plan reflects changing economic conditions and the economic effect of regulation on commerce.** The regional plan shall consist of a diagram, or diagrams, and text, or texts setting forth the projects and proposals for implementation of the regional plan, a description of the needs and goals of the region and a statement of the policies, standards and elements of the regional plan.

The regional plan shall be a single enforceable plan and includes all of the following correlated elements:

(1) A land-use plan for the integrated arrangement and general location and extent of, and the criteria and standards for, the uses of land, water, air, space and other natural resources within the region, including but not limited to an indication or allocation of maximum population densities and permitted uses.

(2) A transportation plan for the integrated development of a regional system of transportation, including but not limited to parkways, highways, transportation facilities, transit routes, waterways, navigation facilities, public transportation facilities, bicycle facilities, and appurtenant terminals and facilities for the movement of people and goods within the region. The goal of transportation planning shall be:

(A) To reduce dependency on the automobile by making more effective use of existing transportation modes and of public transit to move people and goods within the region; and

(B) To reduce to the extent feasible air pollution which is caused by motor vehicles.

↪ Where increases in capacity are required, the agency shall give preference to providing such capacity through public transportation and public programs and projects related to transportation. The agency shall review and consider all existing transportation plans in preparing its regional transportation plan pursuant to this paragraph.

The plan shall provide for an appropriate transit system for the region.

The plan shall give consideration to:

(A) Completion of the Loop Road in the states of Nevada and California;

(B) Utilization of a light rail mass transit system in the South Shore area; and

(C) Utilization of a transit terminal in the Kingsbury Grade area.

↪ Until the regional plan is revised, or a new transportation plan is adopted in accordance with this paragraph, the agency has no effective transportation plan.

(3) A conservation plan for the preservation, development, utilization, and management of the scenic and other natural resources within the basin, including but not limited to, soils, shoreline and submerged lands, scenic corridors along transportation routes, open spaces, recreational and historical facilities.

(4) A recreation plan for the development, utilization, and management of the recreational resources of the region, including but not limited to, wilderness and forested lands, parks and parkways, riding and hiking trails, beaches and playgrounds, marinas, areas for skiing and other recreational facilities.

(5) A public services and facilities plan for the general location, scale and provision of public services and facilities, which, by the nature of their function, size, extent and other characteristics are necessary or appropriate for inclusion in the regional plan.

In formulating and maintaining the regional plan, the planning commission and governing body shall take account of and shall seek to harmonize the needs of the region as a whole, the plans of the counties and cities within the region, the plans and planning activities of the state, federal and other public agencies and nongovernmental agencies and organizations which affect or are concerned with planning and development within the region.

(d) The regional plan shall provide for attaining and maintaining federal, state, or local air and water quality standards, whichever are strictest, in the respective portions of the region for which the standards are applicable.

The agency may, however, adopt air or water quality standards or control measures more stringent than the applicable state implementation plan or the applicable federal, state, or local standards for the region, if it finds that such additional standards or control measures are necessary to achieve the purposes of this compact. Each element of the regional plan, where applicable, shall, by ordinance, identify the means and time schedule by which air and water quality standards will be attained.

(e) Except for the Regional Transportation Plan of the California Tahoe Regional Planning Agency, the regional plan, ordinances, rules and regulations adopted by the California Tahoe Regional Planning Agency in effect on July 1, 1980, shall be the regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency for that portion of the Tahoe region located in the State of California. Such plan, ordinance, rule or regulation may be amended or repealed by the governing body of the agency. The plans, ordinances, rules and regulations of the Tahoe Regional Planning Agency that do not conflict with, or are not addressed by, the California Tahoe Regional Planning Agency's plans, ordinances, rules and regulations referred to in this subdivision shall continue to be applicable unless amended or repealed by the governing body of the agency. No provision of the regional plan, ordinances, rules and regulations of the California Tahoe Regional Planning Agency referred to in this subdivision shall apply to that portion of the region within the State of Nevada, unless such provision is adopted for the Nevada portion of the region by the governing body of the agency.

(f) The regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency apply to that portion of the region within the State of Nevada.

(g) The agency shall adopt ordinances prescribing specific written findings that the agency must make prior to approving any project in the region. These findings shall relate to environmental protection and shall insure that the project under review will not adversely affect implementation of the regional plan and will not cause the adopted environmental threshold carrying capacities of the region to be exceeded.

(h) The agency shall maintain the data, maps and other information developed in the course of formulating and administering the regional plan, in a form suitable to assure a consistent view of developmental trends and other relevant information for the availability of and use by other agencies of government and by private organizations and individuals concerned.

(i) Where necessary for the realization of the regional plan, the agency may engage in collaborative planning with local governmental jurisdictions located outside the region, but contiguous to its boundaries. In formulating and implementing the regional plan, the agency shall seek the cooperation and consider the recommendations of counties and cities and other agencies of local government, of state and federal agencies, of educational institutions and research organizations, whether public or private, and of civic groups and private persons.

ARTICLE VI. Agency's Powers

(a) The governing body shall adopt all necessary ordinances, rules, and regulations to effectuate the adopted regional plan. Except as otherwise provided in this compact, every such ordinance, rule or regulation shall establish a minimum standard applicable throughout the region. Any political subdivision or public agency may adopt and enforce an equal or higher requirement applicable to the same subject of regulation in its territory. The regulations of the agency shall contain standards including but not limited to the following: water purity and clarity; subdivision; zoning; tree removal; solid waste disposal; sewage disposal; land fills, excavations, cuts and grading; piers, harbors, breakwaters or channels and other shoreline developments; waste disposal in shoreline areas; waste disposal from boats; mobile-home parks; house relocation; outdoor advertising; floodplain protection; soil and sedimentation control; air pollution; and watershed protection. Whenever possible without diminishing the effectiveness of the regional plan, the ordinances, rules, regulations and policies shall be confined to matters which are general and regional in application, leaving to the jurisdiction of the respective states, counties and cities the enactment of specific and local ordinances, rules, regulations and policies which conform to the regional plan.

The agency shall prescribe by ordinance those activities which it has determined will not have substantial effect on the land, water, air, space or any other natural resources in the region and therefore will be exempt from its review and approval.

Every ordinance adopted by the agency shall be published at least once by title in a newspaper or combination of newspapers whose circulation is

general throughout the region. Except an ordinance adopting or amending the regional plan, no ordinance shall become effective until 60 days after its adoption. Immediately after its adoption, a copy of each ordinance shall be transmitted to the governing body of each political subdivision having territory within the region.

(b) No project other than those to be reviewed and approved under the special provisions of subdivisions (d), (e), (f) and (g) may be developed in the region without obtaining the review and approval of the agency and no project may be approved unless it is found to comply with the regional plan and with the ordinances, rules and regulations enacted pursuant to subdivision (a) to effectuate that plan.

The agency may approve a project in the region only after making the written findings required by this subdivision or subdivision (g) of Article V. Such findings shall be based on substantial evidence in the record.

Before adoption by the agency of the ordinances required in subdivision (g) of Article V, the agency may approve a project in the region only after making written findings on the basis of substantial evidence in the record that the project is consistent with the regional plan then in effect and with applicable plans, ordinances, regulations, and standards of federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the region.

(c) The legislatures of the states of California and Nevada find that in order to make effective the regional plan as revised by the agency, it is necessary to halt temporarily works of development in the region which might otherwise absorb the entire capability of the region for further development or direct it out of harmony with the ultimate plan. Subject to the limitation provided in this subdivision, from the effective date of the amendments to this compact until the regional plan is amended pursuant to subdivision (c) of Article V, or until May 1, 1983, whichever is earlier:

(1) Except as otherwise provided in this paragraph, no new subdivision, planned unit development, or condominium project may be approved unless a complete tentative map or plan has been approved before the effective date of the amendments to this compact by all agencies having jurisdiction. The subdivision of land owned by a general improvement district, which existed and owned the land before the effective date of the amendments to this compact, may be approved if subdivision of the land is necessary to avoid insolvency of the district.

(2) Except as provided in paragraph (3), no apartment building may be erected unless the required permits for such building have been secured from all agencies having jurisdiction, prior to the effective date of the amendments to this compact.

(3) During each of the calendar years 1980, 1981 and 1982, no city or county may issue building permits which authorize the construction of a greater number of new residential units within the region than were authorized within the region by building permits issued by that city or county

during the calendar year 1978. For the period of January through April, 1983, building permits authorizing the construction of no more than one-third of that number may be issued by each such city or county. For purposes of this paragraph a "residential unit" means either a single family residence or an individual residential unit within a larger building, such as an apartment building, a duplex or a condominium.

The legislatures find the respective numbers of residential units authorized within the region during the calendar year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County
(combined).....252
2. Placer County278
3. Carson City-0-
4. Douglas County339
5. Washoe County.....739

(4) During each of the calendar years 1980, 1981 and 1982, no city or county may issue building permits which authorize construction of a greater square footage of new commercial buildings within the region than were authorized within the region by building permits for commercial purposes issued by that city or county during the calendar year 1978. For the period of January through April, 1983, building permits authorizing the construction of no more than one-third the amount of that square footage may be issued by each such city or county.

The legislatures find the respective square footages of commercial buildings authorized within the region during calendar year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County
(combined).....64,324
2. Placer County23,000
3. Carson City-0-
4. Douglas County57,354
5. Washoe County.....50,600

(5) No structure may be erected to house gaming under a nonrestricted license.

(6) No facility for the treatment of sewage may be constructed or enlarged except:

(A) To comply, as ordered by the appropriate state agency for the control of water pollution, with existing limitations of effluent under the Clean Water Act, 33 U.S.C. §§ 1251 et seq., and the applicable state law for control of water pollution;

(B) To accommodate development which is not prohibited or limited by this subdivision; or

(C) In the case of Douglas County Sewer District # 1, to modify or otherwise alter sewage treatment facilities existing on the effective date of the amendments to this compact so that such facilities will be able to treat the total volume of effluent for which they were originally designed, which is

3.0 million gallons per day. Such modification or alteration is not a "project"; is not subject to the requirements of Article VII; and does not require a permit from the agency. Before commencing such modification or alteration, however, the district shall submit to the agency its report identifying any significant soil erosion problems which may be caused by such modifications or alterations and the measures which the district proposes to take to mitigate or avoid such problems.

The moratorium imposed by this subdivision does not apply to work done pursuant to a right vested before the effective date of the amendments to this compact. Notwithstanding the expiration date of the moratorium imposed by this subdivision, no new highway may be built or existing highway widened to accommodate additional continuous lanes for automobiles until the regional transportation plan is revised and adopted.

The moratorium imposed by this subdivision does not apply to the construction of any parking garage which has been approved by the agency prior to May 4, 1979, whether that approval was affirmative or by default. The provisions of this paragraph are not an expression of legislative intent that any such parking garage, the approval of which is the subject of litigation which was pending on the effective date of the amendments to this compact, should or should not be constructed. The provisions of this paragraph are intended solely to permit construction of such a parking garage if a judgment sustaining the agency's approval to construct that parking garage has become final and no appeal is pending or may lawfully be taken to a higher court.

(d) Subject to the final order of any court of competent jurisdiction entered in litigation contesting the validity of an approval by the Tahoe Regional Planning Agency, whether that approval was affirmative or by default, if that litigation was pending on May 4, 1979, the agency and the states of California and Nevada shall recognize as a permitted and conforming use:

(1) Every structure housing gaming under a nonrestricted license which existed as a licensed gaming establishment on May 4, 1979, or whose construction was approved by the Tahoe Regional Planning Agency affirmatively or deemed approved before that date. The construction or use of any structure to house gaming under a nonrestricted license not so existing or approved, or the enlargement in cubic volume of any such existing or approved structure is prohibited.

(2) Every other nonrestricted gaming establishment whose use was seasonal and whose license was issued before May 4, 1979, for the same season and for the number and type of games and slot machines on which taxes or fees were paid in the calendar year 1978.

(3) Gaming conducted pursuant to a restricted gaming license issued before May 4, 1979, to the extent permitted by that license on that date.

➔ The area within any structure housing gaming under a nonrestricted license which may be open to public use (as distinct from that devoted to the

private use of guests and exclusive of any parking area) is limited to the area existing or approved for public use on May 4, 1979. Within these limits, any external modification of the structure which requires a permit from a local government also requires approval from the agency. The agency shall not permit restaurants, convention facilities, showrooms or other public areas to be constructed elsewhere in the region outside the structure in order to replace areas existing or approved for public use on May 4, 1979.

(e) Any structure housing licensed gaming may be rebuilt or replaced to a size not to exceed the cubic volume, height and land coverage existing or approved on May 4, 1979, without the review or approval of the agency or any planning or regulatory authority of the State of Nevada whose review or approval would be required for a new structure.

(f) The following provisions apply to any internal or external modification, remodeling, change in use, or repair of a structure housing gaming under a nonrestricted license which is not prohibited by Article VI (d):

(1) The agency's review of an external modification of the structure which requires a permit from a local government is limited to determining whether the external modification will do any of the following:

(A) Enlarge the cubic volume of the structure;

(B) Increase the total square footage of area open to or approved for public use on May 4, 1979;

(C) Convert an area devoted to the private use of guests to an area open to public use;

(D) Increase the public area open to public use which is used for gaming beyond the limits contained in paragraph (3); and

(E) Conflict with or be subject to the provisions of any of the agency's ordinances that are generally applicable throughout the region.

↪ The agency shall make this determination within 60 days after the proposal is delivered to the agency in compliance with the agency's rules or regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If an external modification is determined to have any of the effects enumerated in subparagraphs (A) through (C), it is prohibited. If an external modification is determined to have any of the effects enumerated in subparagraph (D) or (E), it is subject to the applicable provisions of this compact. If an external modification is determined to have no such effect, it is not subject to the provisions of this compact.

(2) Except as provided in paragraph (3), internal modification, remodeling, change in use or repair of a structure housing gaming under a nonrestricted license is not a project and does not require the review or approval of the agency.

(3) Internal modification, remodeling, change in use or repair of areas open to public use within a structure housing gaming under a nonrestricted license which alone or in combination with any other such modification, remodeling, change in use or repair will increase the total portion of those

areas which is actually used for gaming by more than the product of the total base area, as defined below, in square feet existing on or approved before August 4, 1980, multiplied by 15 percent constitutes a project and is subject to all of the provisions of this compact relating to projects. For purposes of this paragraph and the determination required by Article VI (g), base area means all of the area within a structure housing gaming under a nonrestricted license which may be open to public use, whether or not gaming is actually conducted or carried on in that area, except retail stores, convention centers and meeting rooms, administrative offices, kitchens, maintenance and storage areas, rest rooms, engineering and mechanical rooms, accounting rooms and counting rooms.

(g) In order to administer and enforce the provisions of paragraphs (d), (e) and (f) the State of Nevada, through its appropriate planning or regulatory agency, shall require the owner or licensee of a structure housing gaming under a nonrestricted license to provide:

(1) Documents containing sufficient information for the Nevada agency to establish the following relative to the structure:

(A) The location of its external walls;

(B) Its total cubic volume;

(C) Within its external walls, the area in square feet open or approved for public use and the area in square feet devoted to or approved for the private use of guests on May 4, 1979;

(D) The amount of surface area of land under the structure; and

(E) The base area as defined in paragraph (f)(3) in square feet existing on or approved before August 4, 1980.

(2) An informational report whenever any internal modification, remodeling, change in use, or repair will increase the total portion of the areas open to public use which is used for gaming.

The Nevada agency shall transmit this information to the Tahoe Regional Planning Agency.

(h) Gaming conducted pursuant to a restricted gaming license is exempt from review by the agency if it is incidental to the primary use of the premises.

(i) The provisions of subdivisions (d) and (e) are intended only to limit gaming and related activities as conducted within a gaming establishment, or construction designed to permit the enlargement of such activities, and not to limit any other use of property zoned for commercial use or the accommodation of tourists, as approved by the agency.

(j) Legal actions arising out of or alleging a violation of the provisions of this compact, of the regional plan or of an ordinance or regulation of the agency or of a permit or a condition of a permit issued by the agency are governed by the following provisions:

(1) This subdivision applies to:

(A) Actions arising out of activities directly undertaken by the agency.

(B) Actions arising out of the issuance to a person of a lease, permit, license or other entitlement for use by the agency.

(C) Actions arising out of any other act or failure to act by any person or public agency.

↳ Such legal actions may be filed and the provisions of this subdivision apply equally in the appropriate courts of California and Nevada and of the United States.

(2) Venue lies:

(A) If a civil or criminal action challenges an activity by the agency or any person which is undertaken or to be undertaken upon a parcel of real property, in the state or federal judicial district where the real property is situated.

(B) If an action challenges an activity which does not involve a specific parcel of land (such as an action challenging an ordinance of the agency), in any state or federal court having jurisdiction within the region.

(3) Any aggrieved person may file an action in an appropriate court of the State of California or Nevada or of the United States alleging noncompliance with the provisions of this compact or with an ordinance or regulation of the agency. In the case of governmental agencies, "aggrieved person" means the Tahoe Regional Planning Agency or any state, federal or local agency. In the case of any person other than a governmental agency who challenges an action of the Tahoe Regional Planning Agency, "aggrieved person" means any person who has appeared, either in person, through an authorized representative, or in writing, before the agency at an appropriate administrative hearing to register objection to the action which is being challenged, or who had good cause for not making such an appearance.

(4) A legal action arising out of the adoption or amendment of the regional plan or of any ordinance or regulation of the agency, or out of the granting or denial of any permit, shall be commenced within 60 days after final action by the agency. All other legal actions shall be commenced within 65 days after discovery of the cause of action.

(5) In any legal action filed pursuant to this subdivision which challenges an adjudicatory act or decision of the agency to approve or disapprove a project, the scope of judicial inquiry shall extend only to whether there was prejudicial abuse of discretion. Prejudicial abuse of discretion is established if the agency has not proceeded in a manner required by law or if the act or decision of the agency was not supported by substantial evidence in light of the whole record. In making such a determination the court shall not exercise its independent judgment on evidence but shall only determine whether the act or decision was supported by substantial evidence in light of the whole record. In any legal action filed pursuant to this subdivision which challenges a legislative act or decision of the agency (such as the adoption of the regional plan and the enactment of implementing ordinances), the scope of the judicial inquiry shall extend only to the questions of whether the act or decision has been arbitrary, capricious or lacking substantial evidentiary

support or whether the agency has failed to proceed in a manner required by law. **In addition, there is a rebuttable presumption that a regional plan adopted, amended, formulated or maintained pursuant to this compact is in conformance with the requirements applicable to this compact, and a party challenging the regional plan has the burden of showing that it is not in conformance with the requirements applicable to this compact.**

(6) The provisions of this subdivision do not apply to any legal proceeding pending on the date when this subdivision becomes effective. Any such legal proceeding shall be conducted and concluded under the provisions of law which were applicable prior to the effective date of this subdivision.

(7) The security required for the issuance of a temporary restraining order or preliminary injunction based upon an alleged violation of this compact or any ordinance, plan, rule or regulation adopted pursuant thereto is governed by the rule or statute applicable to the court in which the action is brought, unless the action is brought by a public agency or political subdivision to enforce its own rules, regulations and ordinances in which case no security shall be required.

(k) The agency shall monitor activities in the region and may bring enforcement actions in the region to ensure compliance with the regional plan and adopted ordinances, rules, regulations and policies. If it is found that the regional plan, or ordinances, rules, regulations and policies are not being enforced by a local jurisdiction, the agency may bring action in a court of competent jurisdiction to ensure compliance.

(l) Any person who violates any provision of this compact or of any ordinance or regulation of the agency or of any condition of approval imposed by the agency is subject to a civil penalty not to exceed \$5,000. Any such person is subject to an additional civil penalty not to exceed \$5,000 per day, for each day on which such a violation persists. In imposing the penalties authorized by this subdivision, the court shall consider the nature of the violation and shall impose a greater penalty if it was willful or resulted from gross negligence than if it resulted from inadvertence or simple negligence.

(m) The agency is hereby empowered to initiate, negotiate and participate in contracts and agreements among the local governmental authorities of the region, or any other intergovernmental contracts or agreements authorized by state or federal law.

(n) Each intergovernmental contract or agreement shall provide for its own funding and staffing, but this shall not preclude financial contributions from the local authorities concerned or from supplementary sources.

(o) Every record of the agency, whether public or not, shall be open for examination to the Legislature and Controller of the State of California and the legislative auditor of the State of Nevada.

(p) Approval by the agency of any project expires 3 years after the date of final action by the agency or the effective date of the amendments to this compact, whichever is later, unless construction is begun within that time and

diligently pursued thereafter, or the use or activity has commenced. In computing the 3-year period any period of time during which the project is the subject of a legal action which delays or renders impossible the diligent pursuit of that project shall not be counted. Any license, permit or certificate issued by the agency which has an expiration date shall be extended by that period of time during which the project is the subject of such legal action as provided in this subdivision.

(q) The governing body shall maintain a current list of real property known to be available for exchange with the United States or with other owners of real property in order to facilitate exchanges of real property by owners of real property in the region.

ARTICLE VII. Environmental Impact Statements

(a) The Tahoe Regional Planning Agency when acting upon matters that have a significant effect on the environment shall:

(1) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment;

(2) Prepare and consider a detailed environmental impact statement before deciding to approve or carry out any project. The detailed environmental impact statement shall include the following:

(A) The significant environmental impacts of the proposed project;

(B) Any significant adverse environmental effects which cannot be avoided should the project be implemented;

(C) Alternatives to the proposed project;

(D) Mitigation measures which must be implemented to assure meeting standards of the region;

(E) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

(F) Any significant irreversible and irretrievable commitments of resources which would be involved in the proposed project should it be implemented; and

(G) The growth-inducing impact of the proposed project;

(3) Study, develop and describe appropriate alternatives to recommended courses of action for any project which involves unresolved conflicts concerning alternative uses of available resources;

(4) Make available to states, counties, municipalities, institutions and individuals, advice and information useful in restoring, maintaining and enhancing the quality of the region's environment; and

(5) Initiate and utilize ecological information in the planning and development of resource-oriented projects.

(b) Prior to completing an environmental impact statement, the agency shall consult with and obtain the comments of any federal, state or local agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments

and views of the appropriate federal, state and local agencies which are authorized to develop and enforce environmental standards shall be made available to the public and shall accompany the project through the review processes. The public shall be consulted during the environmental impact statement process and views shall be solicited during a public comment period not to be less than 60 days.

(c) Any environmental impact statement required pursuant to this article need not repeat in its entirety any information or data which is relevant to such a statement and is a matter of public record or is generally available to the public, such as information contained in an environmental impact report prepared pursuant to the California Environmental Quality Act or a federal environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969. However, such information or data shall be briefly described in the environmental impact statement and its relationship to the environmental impact statement shall be indicated.

In addition, any person may submit information relative to a proposed project which may be included, in whole or in part, in any environmental impact statement required by this article.

(d) In addition to the written findings specified by agency ordinance to implement the regional plan, the agency shall make either of the following written findings before approving a project for which an environmental impact statement was prepared:

(1) Changes or alterations have been required in or incorporated into such project which avoid or reduce the significant adverse environmental effects to a less than significant level; or

(2) Specific considerations, such as economic, social or technical, make infeasible the mitigation measures or project alternatives discussed in the environmental impact statement on the project.

↪ A separate written finding shall be made for each significant effect identified in the environmental impact statement on the project. All written findings must be supported by substantial evidence in the record.

(e) The agency may charge and collect a reasonable fee from any person proposing a project subject to the provisions of this compact in order to recover the estimated costs incurred by the agency in preparing an environmental impact statement under this article.

(f) The agency shall adopt by ordinance a list of classes of projects which the agency has determined will not have a significant effect on the environment and therefore will be exempt from the requirement for the preparation of an environmental impact statement under this article. Prior to adopting the list, the agency shall make a written finding supported by substantial evidence in the record that each class of projects will not have a significant effect on the environment.

ARTICLE VIII. Finances

(a) On or before September 30 of each calendar year the agency shall establish the amount of money necessary to support its activities for the next

succeeding fiscal year commencing July 1 of the following year. The agency shall apportion \$75,000 of this amount among the counties within the region on the same ratio to the total sum required as the full cash valuation of taxable property within the region in each county bears to the total full cash valuation of taxable property within the region. In addition, each county within the region in California shall pay \$18,750 to the agency and each county within the region in Nevada, including Carson City, shall pay \$12,500 to the agency, from any funds available therefor. The State of California and the State of Nevada may pay to the agency by July 1 of each year any additional sums necessary to support the operations of the agency pursuant to this compact. If additional funds are required, the agency shall make a request for the funds to the states of California and Nevada. Requests for state funds must be apportioned two-thirds from California and one-third from Nevada. Money appropriated shall be paid within 30 days.

(b) The agency may fix and collect reasonable fees for any services rendered by it.

(c) The agency shall submit an itemized budget to the states for review with any request for state funds, shall be strictly accountable to any county in the region and the states for all funds paid by them to the agency and shall be strictly accountable to all participating bodies for all receipts and disbursement.

(d) The agency is authorized to receive gifts, donations, subventions, grants, and other financial aids and funds; but the agency may not own land except as provided in subdivision (i) of Article III.

(e) The agency shall not obligate itself beyond the moneys due under this article for its support from the several counties and the states for the current fiscal year, plus any moneys on hand or irrevocably pledged to its support from other sources. No obligation contracted by the agency shall bind either of the party states or any political subdivision thereof.

ARTICLE IX. Transportation District

(a) The Tahoe transportation district is hereby established as a special purpose district. The boundaries of the district are coterminous with those of the region.

(b) The business of the district shall be managed by a board of directors consisting of:

(1) One member of the county board of supervisors of each of the counties of El Dorado and Placer who must be appointed by his respective board of supervisors;

(2) One member of the city council of the City of South Lake Tahoe who must be appointed by the city council;

(3) One member each of the board of county commissioners of Douglas County and of Washoe County who must be appointed by his respective board of county commissioners;

(4) One member of the board of supervisors of Carson City who must be appointed by the board of supervisors;

(5) One member of the South Shore Transportation Management Association or its successor organization who must be appointed by the association or its successor organization;

(6) One member of the North Shore Transportation Management Association or its successor organization who must be appointed by the association or its successor organization;

(7) One member of each local transportation district in the region that is authorized by the State of Nevada or the State of California who must be appointed by his respective transportation district;

(8) One member appointed by a majority of the other voting directors who represents a public or private transportation system operating in the region;

(9) The director of the California Department of Transportation; and

(10) The director of the department of transportation of the State of Nevada.

↪ Any entity that appoints a member to the board of directors, the director of the California Department of Transportation or the director of the department of transportation of the State of Nevada may designate an alternate.

(c) Before a local transportation district appoints a member to the board of directors pursuant to paragraph (7) of subdivision (b), the local transportation district must enter into a written agreement with the Tahoe transportation district that sets forth the responsibilities of the districts for the establishment of policies and the management of financial matters, including, but not limited to, the distribution of revenue among the districts.

(d) The directors of the California Department of Transportation and the department of transportation of the State of Nevada, or their designated alternates, serve as nonvoting directors, but shall provide technical and professional advice to the district as necessary and appropriate.

(e) The vote of a majority of the directors must agree to take action. If a majority of votes in favor of an action are not cast, an action of rejection shall be deemed to have been taken.

(f) The Tahoe transportation district may by resolution establish procedures for the adoption of its budgets, the appropriation of its money and the carrying on of its other financial activities. These procedures must conform insofar as is practicable to the procedures for financial administration of the State of California or the State of Nevada or one or more of the local governments in the region.

(g) The Tahoe transportation district may in accordance with the adopted transportation plan:

(1) Own and operate a public transportation system to the exclusion of all other publicly owned transportation systems in the region.

(2) Own and operate support facilities for public and private systems of transportation, including, but not limited to, parking lots, terminals, facilities for maintenance, devices for the collection of revenue and other related equipment.

(3) Acquire or agree to operate upon mutually agreeable terms any publicly or privately owned transportation system or facility within the region.

(4) Hire the employees of existing public transportation systems that are acquired by the district without loss of benefits to the employees, bargain collectively with employee organizations, and extend pension and other collateral benefits to employees.

(5) Contract with private companies to provide supplementary transportation or provide any of the services needed in operating a system of transportation for the region.

(6) Contract with local governments in the region to operate transportation facilities or provide any of the services necessary to operate a system of transportation for the region.

(7) Fix the rates and charges for transportation services provided pursuant to this subdivision.

(8) Issue revenue bonds and other evidence of indebtedness and make other financial arrangements appropriate for developing and operating a public transportation system.

(9) By resolution, determine and propose for adoption a tax for the purpose of obtaining services of the district. The tax proposed must be general and of uniform operation throughout the region, and may not be graduated in any way, except for a sales and use tax. If a sales and use tax is approved by the voters as provided in this paragraph, it may be administered by the states of California and Nevada respectively in accordance with the laws that apply within their respective jurisdictions and must not exceed a rate of 1 percent of the gross receipts from the sale of tangible personal property sold in the district. The district is prohibited from imposing any other tax measured by gross or net receipts on business, an ad valorem tax, a tax or charge that is assessed against people or vehicles as they enter or leave the region, and any tax, direct or indirect, on gaming tables and devices. Any such proposition must be submitted to the voters of the district and shall become effective upon approval of the voters voting on the proposition who reside in the State of California in accordance with the laws that apply within that state and approval of the voters voting on the proposition who reside in the State of Nevada in accordance with the laws that apply within that state. The revenues from any such tax must be used for the service for which it was imposed, and for no other purpose.

(10) Provide service from inside the region to convenient airport, railroad and interstate bus terminals without regard to the boundaries of the region.

(h) The legislatures of the states of California and Nevada may, by substantively identical enactments, amend this article.

ARTICLE X. Miscellaneous

(a) It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. Except as provided in subdivision (c), the provisions of this compact shall be severable and if

any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining state and in full force and effect as to the state affected as to all severable matters.

(b) The agency shall have such additional powers and duties as may hereafter be delegated or imposed upon it from time to time by the action of the Legislature of either state concurred in by the Legislature of the other.

(c) A state party to this compact may withdraw therefrom by enacting a statute repealing the compact. Notice of withdrawal shall be communicated officially and in writing to the Governor of the other state and to the agency administrators. This provision is not severable, and if it is held to be unconstitutional or invalid, no other provision of this compact shall be binding upon the State of Nevada or the State of California.

(d) No provision of this compact shall have any effect upon the allocation, distribution or storage of interstate waters or upon any appropriate water right.

Sec. 2. NRS 277.207 is hereby amended to read as follows:

277.207 All judicial actions and proceedings in which there may arise a question of the validity of any matter under the provisions of *former* NRS 277.190 to 277.220, inclusive, ~~shall~~ **must** be advanced as a matter of immediate public interest and concern, and be heard at the earliest practicable moment.

Sec. 3. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

The Account for the Nevada Tahoe Regional Planning Agency is hereby established in the State General Fund and consists of any money provided by direct legislative appropriation. Money in the Account must be expended for the support of, or paid over directly to, the Agency in whatever amount and manner is directed by each appropriation or provided by law.

Sec. 4. NRS 278.024 is hereby amended to read as follows:

278.024 1. In the region of this State for which there has been created by NRS 278.780 to 278.828, inclusive, **and section 3 of this act** a regional planning agency, the powers conferred by NRS 278.010 to 278.630, inclusive, upon any other authority are subordinate to the powers of such regional planning agency, and may be exercised only to the extent that their exercise does not conflict with any ordinance or plan adopted by such regional planning agency. The powers conferred by NRS 278.010 to 278.630, inclusive, shall be exercised whenever appropriate in furtherance of a plan adopted by the regional planning agency.

2. Upon the adoption by a regional planning agency created by NRS 278.780 to 278.828, inclusive, **and section 3 of this act** of any regional plan, any plan adopted pursuant to NRS 278.010 to 278.630, inclusive, shall cease to be effective as to the territory embraced in such regional plan. Each planning commission and governing body whose previously adopted plan is so affected shall, within 90 days after the effective date of the regional plan, initiate any necessary procedure to revise its plan and any related zoning ordinances which affect adjacent territory.

Sec. 5. NRS 278.782 is hereby amended to read as follows:

278.782 As used in NRS 278.780 to 278.828, inclusive, **and section 3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 278.784 to 278.791, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 278.792 is hereby amended to read as follows:

278.792 1. The Nevada Tahoe Regional Planning Agency is hereby created as a separate legal entity.

2. The governing body of the Agency consists of ~~[-]~~ **seven members as follows:**

(a) One member appointed by each of the boards of county commissioners of Douglas and Washoe counties and one member appointed by the Board of Supervisors of Carson City. Any such member may be a member of the board of county commissioners or Board of Supervisors, respectively, and must reside in the territorial jurisdiction of the governmental body making the appointment.

(b) ~~One member appointed by the~~ **The** Governor of Nevada ~~[- the Secretary of State of Nevada]~~ or a designee of the ~~Secretary of State, and the Director]~~ **Governor.**

(c) ~~The Lieutenant Governor]~~ **Secretary of State or a designee of the** ~~Lieutenant Governor]~~ **Secretary of State.**

(d) **The State Forester Firewarden or a designee of the State Forester Firewarden.**

(e) **The Administrator of the Division of State Lands** of the State Department of Conservation and Natural Resources ~~of Nevada]~~ or a designee of the ~~Director]~~ **Administrator.**

↪ A member who is ~~appointed or]~~ designated pursuant to ~~this paragraph must not be a resident of the region and]~~ **paragraphs (b) to (e), inclusive,** shall represent the public at large within the State of Nevada.

~~[(c) One member appointed for a 1 year term by the six other members. If at least four members are unable to agree upon the selection of a seventh member within 30 days after this section becomes effective or the occurrence of a vacancy, the Governor shall make the appointment. The member appointed pursuant to this paragraph may but is not required to be a resident of the region.]~~

3. If any appointing authority fails to make an appointment within 30 days after the effective date of this section or the occurrence of a vacancy on the governing body, the Governor shall make the appointment.

4. The position of any member of the governing body shall be deemed vacant if the member is absent from three consecutive meetings of the governing body in any calendar year.

5. Each member and employee of the Agency shall disclose his or her economic interests in the region within 10 days after taking the seat on the governing body or being employed by the Agency and shall thereafter disclose any further economic interest which he or she acquires, as soon as feasible after acquiring it. As used in this section, "economic interest" means:

(a) Any business entity operating in the region in which the member has a direct or indirect investment worth more than \$1,000;

(b) Any real property located in the region in which the member has a direct or indirect interest worth more than \$1,000;

(c) Any source of income attributable to activities in the region, other than loans by or deposits with a commercial lending institution in the regular course of business, aggregating \$250 or more in value received by or promised to the member within the preceding 12 months; or

(d) Any business entity operating in the region in which the member is a director, officer, partner, trustee, employee or holds any position of management.

↪ No member or employee of the Agency may make or attempt to influence an Agency decision in which the member or employee knows or has reason to know he or she has a financial interest. Members and employees of the Agency must disqualify themselves from making or participating in the making of any decision of the Agency when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the economic interest of the member or employee.

Sec. 7. NRS 278.794 is hereby amended to read as follows:

278.794 The terms of office of the members of the governing body ~~of~~ ~~other than the member appointed by the other members,]:~~

1. For members who are elected state officers, coincide with the member's elected term of office.

2. For members who are appointed or designated, are at the pleasure of the appointing *or designating* authority in each case, but each appointment *and designation* must be reviewed no less often than every 4 years.

Sec. 8. NRS 218E.550 is hereby amended to read as follows:

218E.550 As used in NRS 218E.550 to 218E.580, inclusive, unless the context otherwise requires, "Committee" means the Legislative Committee for the Review and Oversight of the *Nevada* Tahoe Regional Planning Agency and the Marlette Lake Water System created by NRS 218E.555.

Sec. 9. NRS 218E.555 is hereby amended to read as follows:

218E.555 1. There is hereby created the Legislative Committee for the Review and Oversight of the *Nevada* Tahoe Regional Planning Agency and the Marlette Lake Water System consisting of three members of the Senate and three members of the Assembly, appointed by the Legislative Commission with appropriate regard for their experience with and knowledge of matters relating to the management of natural resources. The members must be appointed to provide representation from the various geographical regions of the State.

2. The Legislative Commission shall review and approve the budget and work program for the Committee and any changes to the budget or work program.

3. The members of the Committee shall elect a Chair from one House of the Legislature and a Vice Chair from the other House. Each Chair and Vice Chair holds office for a term of 2 years commencing on July 1 of each odd-numbered year.

4. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve after the general election until the next regular or special session of the Legislature convenes.

5. Vacancies on the Committee must be filled in the same manner as original appointments.

6. The Committee shall report annually to the Legislative Commission concerning its activities and any recommendations.

Sec. 10. NRS 218E.565 is hereby amended to read as follows:

218E.565 The Committee shall:

1. Provide appropriate review and oversight of the *Nevada* Tahoe Regional Planning Agency and the Marlette Lake Water System;

2. Review the budget, programs, activities, responsiveness and accountability of the *Nevada* Tahoe Regional Planning Agency and the Marlette Lake Water System in such a manner as deemed necessary and appropriate by the Committee; **and**

3. Study the role, authority and activities of:

(a) The *Nevada* Tahoe Regional Planning Agency regarding the Lake Tahoe Basin; and

(b) The Marlette Lake Water System regarding Marlette Lake. ~~}; and~~

~~4. Continue to communicate with members of the Legislature of the State of California to achieve the goals set forth in the Tahoe Regional Planning Compact.}~~

Sec. 11. NRS 321.5952 is hereby amended to read as follows:

321.5952 The Legislature hereby finds and declares that:

1. The Lake Tahoe Basin exhibits unique environmental and ecological conditions that are irreplaceable.

2. Certain of the unique environmental and ecological conditions exhibited within the Lake Tahoe Basin, such as the clarity of the water in Lake Tahoe, are diminishing at an alarming rate.

3. This State has a compelling interest in preserving, protecting, restoring and enhancing the natural environment of the Lake Tahoe Basin.

4. The preservation, protection, restoration and enhancement of the natural environment of the Lake Tahoe Basin is a matter of such significance that it must be carried out on a continual basis.

5. It is in the best interest of this State to grant to the Division continuing authority to carry out programs to preserve, protect, restore and enhance the natural environment of the Lake Tahoe Basin.

6. The powers and duties set forth in NRS 321.5952 to 321.5957, inclusive, are intended to be exercised by the Division in a manner that complements and does not duplicate the activities of the *Nevada* Tahoe Regional Planning Agency.

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

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 *Nevada* Tahoe Regional Planning Agency to carry out the provisions of NRS ~~277.200~~ **278.780 to 278.828, inclusive, and section 3 of this act** 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. 13. NRS 528.150 is hereby amended to read as follows:

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

(a) The Legislative Committee for the Review and Oversight of the *Nevada* Tahoe Regional Planning Agency and Marlette Lake Water System created by NRS 218E.555 and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature;

(b) The Governor;

(c) The *Nevada* Tahoe Regional Planning Agency; and

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

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

(a) The status of:

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

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

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

(b) Compliance with:

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

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

(c) Any efforts to:

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

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

Sec. 14. NRS 540A.030 is hereby amended to read as follows:

540A.030 1. In each county to which this chapter applies, except as otherwise provided in subsections 2 and 3, the region within which water is to be managed, and with respect to which plans for its use are to be made, pursuant to this chapter is the entire county except:

(a) Any land within the region defined by NRS ~~277.200, the Tahoe Regional Planning Compact,~~ **278.790**; and

(b) Lands located within any Indian reservation or Indian colony which are held in trust by the United States.

2. The board may exclude from the region any land which it determines is unsuitable for inclusion because of its remoteness from the sources of supply managed pursuant to this chapter or because it lies within a separate hydrologic basin neither affecting nor affected by conditions within the remainder of the region.

3. The board may include within the region an area otherwise excluded if it finds that the land requires alleviation of the effect of flooding or drainage of storm waters or another benefit from planning or management performed in the region.

Sec. 15. Section 1 of The Lake Tahoe Basin Act of 1993, being chapter 355, Statutes of Nevada 1993, at page 1152, is hereby amended to read as follows:

Section 1. Program to mitigate environmentally detrimental effects of land coverage: Establishment; authority of state land registrar.

1. The Division of State Lands of the State Department of Conservation and Natural Resources shall, within the limits of available money, establish a program to mitigate the environmentally detrimental effects of land coverage in the Lake Tahoe Basin.

2. In carrying out the program the Division may, as the State Land Registrar deems appropriate regarding particular parcels of land:

(a) Acquire by donation, purchase or exchange real property or any interest in real property in the Lake Tahoe Basin.

(b) Transfer by sale, lease or exchange real property or any interest in real property in the Lake Tahoe Basin.

(c) Eliminate land coverage on real property acquired pursuant to paragraph (a).

(d) Eliminate, or mitigate the effects of, features or conditions of real property acquired pursuant to paragraph (a) which are detrimental to the environment of the Lake Tahoe Basin.

(e) Retire or otherwise terminate rights to place land coverage on real property in the Lake Tahoe Basin.

3. Any acquisition of real property or any interest in real property made pursuant to this section must first be approved by the State Board of Examiners. The price of the acquisition must be based on the fair market value of the property or interest as determined by a qualified appraiser.

4. The State Land Registrar may transfer real property or any interest in real property acquired pursuant to this section:

(a) To state and federal agencies, local governments and nonprofit organizations for such consideration as the State Land Registrar deems to be reasonable and in the interest of the general public.

(b) To other persons for a price that is not less than the fair market value of the real property or interest as determined by a qualified appraiser.

5. ~~Before any real property or an interest in real property is transferred pursuant to this section, a declaration of restrictions or deed restrictions must be recorded as required by the Tahoe Regional Planning Agency to ensure~~

that rights to place land coverage on the real property are retired or otherwise terminated.

~~6.~~ The State Land Registrar shall report quarterly to the State Board of Examiners regarding the real property or interests in real property transferred pursuant to this section.

~~7.~~ **6.** As used in this section, "land coverage" means any covering over the natural surface of the ground that prevents water from percolating into the ground.

Sec. 16. Section 22 of the Western Regional Water Commission Act, being chapter 531, Statutes of Nevada 2007, at page 3289, is hereby amended to read as follows:

Sec. 22. Planning area: Boundaries; exclusions; exceptions.

1. The planning area in which plans for the use, management and conservation of water are to be made, pursuant to this act, is the entire area within the boundaries of Washoe County except:

(a) Any land within the region defined by NRS ~~{277.200, the Tahoe Regional Planning Compact,}~~ **278.790;**

(b) Land located within any Indian reservation or Indian colony which is held in trust by the United States;

(c) Land located within the Gerlach General Improvement District or its successor created pursuant to chapter 318 of NRS;

(d) Land located within the following administrative groundwater basins established by the United States Geological Survey and the Division of Water Resources of the State Department of Conservation and Natural Resources:

(1) Basin 22 (San Emidio Desert);

(2) Basin 23 (Granite Basin); and

(3) Basin 24 (Hualapai Flat); and

(e) Any land excluded by the Board pursuant to subsection 2 and not otherwise included pursuant to subsection 3.

2. The Board may exclude from the planning area any land which it determines is unsuitable for inclusion because of its remoteness from the water supplies which are the subject of the Comprehensive Plan or because it lies within a separate hydrologic basin neither affecting nor affected by conditions within the remainder of the planning area.

3. The Board may include within the planning area any land otherwise excluded pursuant to subsection 2 if it finds that the land requires alleviation of the effect of flooding or drainage of storm waters or requires another benefit from planning or management performed in the planning area.

Sec. 17. Section 24 of chapter 574, Statutes of Nevada 1979, at page 1134, is hereby amended to read as follows:

Sec. 24. 1. This section shall become effective upon passage and approval.

2. All other sections of this act shall become effective upon ~~{proclamation}~~ :

(a) *Withdrawal from the Tahoe Regional Planning Compact by the State of Nevada; or*

(b) *Proclamation* by the governor of a withdrawal from the Tahoe Regional Planning Compact by the State of California or of his finding that the Tahoe Regional Planning Agency has become unable, for lack of money or for any other reason, to perform its duties or to exercise its powers as provided in the compact ~~[-]~~,

↳ *whichever is earlier.*

Sec. 17.3. Section 3 of chapter 22, Statutes of Nevada 1987, at page 53, is hereby amended to read as follows:

Sec. 3. ~~This~~ *Except as otherwise provided in this section, this act becomes effective upon passage and approval. This act does not become effective unless the contingent events described in section 2 of this act have occurred before January 1, 2011.*

Sec. 17.7. Section 4 of chapter 311, Statutes of Nevada 1997, at page 1170, is hereby amended to read as follows:

Sec. 4. 1. This section ~~and section 3 of this act become~~ *becomes* effective upon passage and approval.

2. Section 1 of this act ~~is~~

~~(a) Becomes~~ *becomes* effective upon ~~proclamation by the governor of this state or~~ the enactment by the State of California of amendments that are substantially identical to the amendments to the Tahoe Regional Planning Compact contained in section 1 of this act. ~~It~~ unless the amendments proposed to the Tahoe Regional Planning Compact by chapter 22, Statutes of Nevada 1987, at page 28, have been approved by the Congress of the United States before the governor issues his proclamation; and

~~(b) Expires by limitation upon approval by the Congress of the United States of the amendments proposed to the Tahoe Regional Planning Compact by chapter 22, Statutes of Nevada 1987, at page 28.~~

~~3. Section 2 of this act becomes effective upon proclamation by the governor of this state of:~~

~~(a) The enactment by the State of California of amendments that are substantially identical to the amendments to the Tahoe Regional Planning Compact contained in section 2 of this act; and~~

~~(b) The approval by the Congress of the United States of the amendments proposed to the Tahoe Regional Planning Compact by chapter 22, Statutes of Nevada 1987, at page 28.~~

Sec. 18. 1. NRS 244.153, 266.263, 267.123, 268.099, 269.123, 277.190, 277.200, 277.210, 277.215, 278.025, 278.826, 309.385 and 318.103 are hereby repealed.

2. Sections 1 and 2 of chapter 442, Statutes of Nevada 1985, at pages 1257 and 1258, respectively, are hereby repealed.

3. NRS 277.220 is repealed effective upon:

(a) Payment of all of the outstanding obligations of the Account for the Tahoe Regional Planning Agency created by NRS 277.220; and

(b) Transfer of the remaining balance, if any, in the Account for the Tahoe Regional Planning Agency to the Account for the Nevada Tahoe Regional Planning Agency created by section 3 of this act, as required by section 21 of this act.

Sec. 19. Except as otherwise provided in NRS 278.792 as amended by section 6 of this act, the governing body, officers, advisory planning commission, executive officer, staff and legal counsel elected or appointed pursuant to NRS 278.780 to 278.828, inclusive, shall remain in their respective offices with the Nevada Tahoe Regional Planning Agency after the withdrawal of the State of Nevada from the Tahoe Regional Planning Compact and until the expiration of their terms, termination by the appointing authority or forfeiture of office.

Sec. 19.5. 1. With respect to any approval or permit for a project that was given or issued, as applicable, by the Tahoe Regional Planning Agency before the date on which the State of Nevada withdraws from the Tahoe Regional Planning Compact:

(a) The permit or approval remains valid after that date; and

(b) The Nevada Tahoe Regional Planning Agency shall assume the responsibility of enforcing the conditions, if any, of the approval or permit.

2. With respect to any application that was pending before the Tahoe Regional Planning Agency on the date on which the State of Nevada withdraws from the Tahoe Regional Planning Compact, the Nevada Tahoe Regional Planning Agency shall process the application without requiring any new or additional filings or submissions.

Sec. 20. To protect the legal rights and interests of the State of Nevada and the Nevada Tahoe Regional Planning Agency, the Attorney General shall, as expeditiously as possible, cause appropriate legal action to be taken to resolve, settle or terminate any proposed or pending litigation:

1. In which the Tahoe Regional Planning Agency is a party; and
2. Which involves the rights, interests, obligations or liabilities of the State of Nevada, residents of this State or the Nevada Tahoe Regional Planning Agency.

Sec. 21. As soon as practicable after ~~the effective date of this act,~~ **the date on which the State of Nevada withdraws from the Tahoe Regional Planning Compact:**

1. Any unexpended balance appropriated by the State of Nevada to, and under the control of, the Tahoe Regional Planning Agency; and

2. After the payment of any outstanding obligations pursuant to subsection 3 of section 18 of this act, any balance remaining in the Account for the Tahoe Regional Planning Agency created by NRS 277.220,

↪ must be transferred to the Account for the Nevada Tahoe Regional Planning Agency created by section 3 of this act.

Sec. 22. As soon as practicable after ~~the effective date of this act,~~ the date on which the State of Nevada withdraws from the Tahoe Regional Planning Compact, the governing body of the Nevada Tahoe Regional Planning Agency shall:

1. Adopt a regional plan pursuant to its authority set forth in NRS 278.8111.

2. Adopt all necessary ordinances, rules, regulations and policies to effectuate the adopted regional plan pursuant to its authority set forth in NRS 278.813.

Sec. 22.5. 1. In addition to exercising the powers and performing the duties set forth in NRS 218E.550 to 218E.580, inclusive, the Committee shall hold hearings on, and prepare for the Legislature a report concerning, the following matters:

(a) The proposed organization and staffing of the Nevada Tahoe Regional Planning Agency which would be necessary for that entity to assume the powers and duties of the Tahoe Regional Planning Agency for the portion of the Lake Tahoe Basin within the State of Nevada.

(b) A proposed schedule for the Nevada Tahoe Regional Planning Agency to adopt a regional plan and ordinances as necessary for that entity to assume the powers and duties of the Tahoe Regional Planning Agency for the portion of the Lake Tahoe Basin within the State of Nevada.

(c) The proposed annual budget, including, without limitation, estimated legal expenses, of the Nevada Tahoe Regional Planning Agency which would be necessary for that entity to assume the powers and duties of the Tahoe Regional Planning Agency for the portion of the Lake Tahoe Basin within the State of Nevada.

(d) An assessment of any potential:

(1) Consequences, including, without limitation, legal consequences, transportation consequences, moratoria on permitting and potential impacts to the economy which would likely occur; and

(2) Legal expenses, including, without limitation, litigation expenses, which would likely be incurred,

↪ in the event that the State of Nevada withdraws from the Tahoe Regional Planning Compact.

(e) Progress of the governing board of the Tahoe Regional Planning Agency toward amending or otherwise revising the regional plan described in the Tahoe Regional Planning Compact to include, without limitation:

(1) Delegation of appropriate planning matters to local, state and federal governmental entities as may be allowed by law; and

(2) Concurrence from the Executive Branches of State Government of the States of Nevada and California with respect to guiding principles and a schedule for amending the regional plan.

(f) Progress toward approving the amendments to the Tahoe Regional Planning Compact set forth in section 1.5 of this act.

2. On or before December 31, 2012, the Committee shall submit the report described in subsection 1 to the Director of the Legislative Counsel Bureau for transmission to the 77th Session of the Nevada Legislature.

3. As used in this section, "Committee" means the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System created by NRS 218E.555.

Sec. 23. 1. The Secretary of State shall transmit ~~to~~ :

(a) A certified copy of this act to:

~~to~~ **(1)** The Governor of the State of California; and

~~to~~ **(2)** The governing body of the Tahoe Regional Planning Agency.

(b) Two certified copies of this act to the Secretary of State of California for delivery to the respective Houses of its Legislature.

2. The Director of the Legislative Counsel Bureau shall transmit copies of section 1.5 of this act to each public officer, agency or other entity that he or she deems appropriate.

3. The Governor of this State, as soon as:

(a) The State of California has enacted amendments that are substantially identical to the amendments to the Tahoe Regional Planning Compact contained in section 1.5 of this act; and

(b) The amendments have been approved pursuant to Public Law 96-551,

shall proclaim that the compact has been amended as provided in this act.

Sec. 23.5. If all of the events described in subsection 4 of section 25 of this act have not yet taken place as of July 1, 2014, the Governor, on or after that date, but before October 1, 2014:

1. Shall assess whether it is likely that all of the events described in subsection 4 of section 25 of this act will take place in the reasonably foreseeable future; and

2. May, if the Governor determines it is likely that all of the events described in subsection 4 of section 25 of this act will take place in the reasonably foreseeable future, issue a proclamation to that effect. If the Governor issues the proclamation described in this subsection, sections 1, 2 to 22, inclusive, and 24 of this act must not become effective until October 1, 2017.

Sec. 24. The Legislative Counsel shall:

1. In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

2. In preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

Sec. 25. 1. This section and sections ~~1, 3, 6, 17, 21, 22~~ **17.3, 17.7, 22.5, 23** and ~~23~~ **23.5** of this act become effective upon passage and approval.

2. ~~Sections~~ **Section 22.5 of this act expires by limitation on January 1, 2013.**

3. **Section 1.5 of this act becomes effective upon proclamation by the Governor of this State of:**

(a) The enactment by the State of California of amendments that are substantially identical to the amendments to the Tahoe Regional Planning Compact contained in section 1.5 of this act; and

(b) The approval of the amendments to the Tahoe Regional Planning Compact contained in section 1.5 of this act pursuant to Public Law 96-551.

4. **Except as otherwise provided in subsection 5, sections 1, 2, ~~3, 4, 5, 7 to 16,~~ to 22, inclusive, ~~18, 19, 20~~ and 24 of this act become effective on October 1, ~~2011~~ 2014, unless, by that date, all of the following events have occurred:**

(a) The State of California has enacted amendments that are substantially identical to the amendments to the Tahoe Regional Planning Compact contained in section 1.5 of this act;

(b) The amendments to the Tahoe Regional Planning Compact contained in section 1.5 of this act have been approved pursuant to Public Law 96-551; and

(c) The governing board of the Tahoe Regional Planning Agency has adopted an update to the 1987 Regional Plan.

5. **In the event that the Governor of this State issues a proclamation pursuant to section 23.5 of this act, sections 1, 2 to 22, inclusive, and 24 of this act become effective on October 1, 2017.**

LEADLINES OF REPEALED SECTIONS OF NRS AND

TEXT OF REPEALED SECTIONS OF STATUTES OF NEVADA

244.153 Public works: County's powers subordinate to powers of regional planning agency.

266.263 Public works: City's powers subordinate to powers of regional planning agency.

267.123 Public works: City's powers subordinate to powers of regional planning agency.

268.099 City's powers subordinate to powers of regional planning agency.

269.123 Town's powers subordinate to powers of regional planning agency.

277.190 Enactment of Tahoe Regional Planning Compact.

277.200 Text of Compact. [Effective until approval by the Congress of the United States of the proposed amendments of 1987 or until proclamation by the Governor of this State that the State of California has enacted amendments substantially similar to the amendments approved in 1997 by the Legislature of this State.]

277.210 Conflict of interest of member of governing body; penalties.

277.215 Violation of certain provisions of Code of Ordinances of Tahoe Regional Planning Agency: Peace officer authorized to take various actions; reporting of name and address of violator; exception.

277.220 Account for Tahoe Regional Planning Agency: Creation; source and use of money.

278.025 Powers of regional planning agency created by interstate compact.

278.826 Assumption of powers and duties by Agency. [Effective upon proclamation by Governor of withdrawal of California from Tahoe Regional Planning Compact or of finding by Governor that the Tahoe Regional Planning Agency has become unable to perform its duties or exercise its powers.]

309.385 Powers of district concerning location and construction of improvements subordinate to powers of regional planning agency.

318.103 Powers of district concerning location and construction of improvements subordinate to powers of regional planning agency.

Section 1 of chapter 442, Statutes of Nevada 1985, page 1257:

Section 1. NRS 278.792 is hereby amended to read as follows:

278.792 1. The Nevada Tahoe regional planning agency is hereby created as a separate legal entity.

2. The governing body of the agency consists of:

(a) One member appointed by each of the boards of county commissioners of Douglas and Washoe counties and one member appointed by the board of supervisors of Carson City. Any such member may be a member of the board of county commissioners or board of supervisors, respectively, and must reside in the territorial jurisdiction of the governmental body making the appointment.

(b) ~~One member~~ **Two members** appointed by the governor ~~of Nevada, the secretary of state of Nevada or his designee, and the director of the state department of conservation and natural resources of Nevada or his designee.~~ A member who is appointed or designated pursuant to this paragraph must not be a resident of the region and shall represent the public at large within the State of Nevada.

~~— (c) One member appointed for a 1 year term by the six other members. If at least four members are unable to agree upon the selection of a seventh member within 30 days after this section becomes effective or the occurrence of a vacancy, the governor shall make the appointment. The member appointed pursuant to this~~

~~paragraph may but is not required to be a resident of the region.] of this state.~~

(c) One member appointed by the speaker of the assembly, and one member appointed by the majority leader of the senate, of this state.

3. If any appointing authority fails to make an appointment within 30 days after the effective date of this section or the occurrence of a vacancy on the governing body, the governor shall make the appointment.

4. The position of any member of the governing body shall be deemed vacant if the member is absent from three consecutive meetings of the governing body in any calendar year.

5. Each member and employee of the agency shall disclose his economic interests in the region within 10 days after taking his seat on the governing body or being employed by the agency and shall thereafter disclose any further economic interest which he acquires, as soon as feasible after he acquires it. As used in this section, "economic interest" means:

(a) Any business entity operating in the region in which the member has a direct or indirect investment worth more than \$1,000 ;
††

(b) Any real property located in the region in which the member has a direct or indirect interest worth more than \$1,000 ; ††

(c) Any source of income attributable to activities in the region, other than loans by or deposits with a commercial lending institution in the regular course of business, aggregating \$250 or more in value received by or promised to the member within the preceding 12 months; or

(d) Any business entity operating in the region in which the member is a director, officer, partner, trustee, employee or holds any position of management.

No member or employee of the agency may make or attempt to influence ~~an agency decision~~ **a decision of the agency** in which he knows or has reason to know he has a financial interest. Members and employees of the agency must disqualify themselves from making or participating in the making of any decision of the agency when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the economic interest of the member or employee.

Section 2 of chapter 442, Statutes of Nevada 1985, page 1258:

Sec. 2. 1. This section becomes effective upon passage and approval.

2. All other sections of this act become effective 1 minute after a proclamation by the governor of the amendment of Article III(a)(2)

of the Tahoe Regional Planning Compact as proposed by Assembly Bill No. 433 of this session.

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. 802 to Senate Bill No. 271 provides that Nevada's withdrawal from the Tahoe Regional Planning Compact will take effect on October 1, 2014, unless the proposed changes in Senate Bill No. 271 are made to the Compact, and the Tahoe Regional Planning Agency (TRPA) has updated the 1987 regional plan. The Governor may issue a proclamation extending this deadline to October 1, 2017.

The amendment removes the supermajority requirement for members voting on matters considered by the TRPA.

It requires the regional plan of the TRPA to consider the Basin's changing economic conditions so that the regional plan does not negatively impact the economy at Lake Tahoe.

It provides that a person who challenges the regional plan has the burden of proof to show that the plan violates the Compact.

The amendment makes various changes throughout the Compact that will not become effective until such time as the State of Nevada pulls out of the Compact. The amendment retains the membership of the Nevada Secretary of State as a member of the Nevada TRPA if Nevada pulls out of the Compact.

The amendment provides that the 1987 proposed amendment to the Compact cannot become effective because it has not yet been ratified.

It provides, if Nevada pulls out of the Compact, that any approval or permit for a project that was issued by the TRPA remains valid.

The amendment requires the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System to prepare a report detailing certain issues related to and impacts of the withdrawing from the Compact.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 359.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 791.

"SUMMARY—Revises provisions relating to contracts with a governmental entity. (BDR 23-973)"

"AN ACT relating to public financial administration; prohibiting a governmental entity from entering into a contract with an independent contractor unless the independent contractor agrees to a code of conduct; requiring an independent contractor to disclose certain information relating to a contract with a governmental entity; limiting the duration of a sole source contract with a governmental entity; ~~prohibiting a governmental entity from extending a contract with an independent contractor unless the contract is first opened to competitive bidding; requiring the periodic renegotiation of contracts with a governmental entity that exceed 2 years;~~ **under certain circumstances; prohibiting the renewal of a sole source contract unless the renewal is approved by a two-thirds vote; limiting the duration of a contract with an independent contractor, other than a sole source**

contract, and authorizing the extension of such a contract upon the approval of the extension by a two-thirds vote; requiring the reporting and posting of certain information relating to sole source contracts; requiring a person who is awarded a contract for a public work to ~~gather and~~ report to the public body which awards the contract certain information concerning the **race, ethnicity, age and gender of certain employees and** applicants for employment on the public work; requiring a public body which awards a contract for a public work to gather and report ~~to~~ **on the Internet website** of the State Public Works Board certain information concerning the bidders for the contract; requiring the State Public Works Board to ~~gather and maintain certain information concerning public works reported to it by various public bodies;~~ **provide for the reporting of such information on its Internet website;** requiring the ~~State Board of Examiners to review and approve in advance each contract;~~ **Department of Transportation to post on its website certain information about certain contracts** for the provision of professional services entered into by the Department ~~; of Transportation;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 8 of this bill requires the Purchasing Division of the Department of Administration to prescribe a code of conduct for independent contractors who enter into a contract with a public body which requires such an independent contractor to abide by all state ethics laws, maintain records of all work done pursuant to such a contract and make these records available for audit. **Section 9** of this bill requires an independent contractor to disclose any fees charged to ~~consumers;~~ **persons who are not a party to the contract** under a contract with a public body and to annually report ~~such income;~~ **the total dollar amount of such fees.** **Section 10** of this bill requires an independent contractor to disclose certain information relating to any subcontractors used to perform a contract with a public body. **Section 14** of this bill provides that if an independent contractor violates any provision of **sections 8-10**, the public body may terminate the contract ~~, and the independent contractor is permanently prohibited from entering into a contract with a public body.~~

Section 11 of this bill: (1) prohibits a public body from entering into a sole source contract for a period exceeding 2 years ~~;~~ **unless the longer period is necessary for the recovery of capital costs; and** (2) prohibits a public body from ~~extending;~~ **renewing a sole source contract unless the governing body of the public body approves the renewal by a two-thirds vote.** **Section 11.5** of this bill **authorizes a public body to enter into a contract with an independent contractor, other than a sole source contract, for a period of not more than 4 years and to extend** the period of ~~an existing;~~ **such a contract** ~~without opening the contract to competitive bidding; and~~ (3) ~~requires a public body to renegotiate every 2 years any contract that exceeds 2 years;~~ **if the governing body of the public body approves the extension by a two-thirds vote.**

Section 12 of this bill requires each public body that enters into a sole source contract to disclose certain information to the Purchasing Division, which must then post that information on its Internet website. **Section 13** of this bill requires each public body that enters into a sole source contract or that renegotiates a contract with an independent contractor to report information relating to the number and dollar amount of the sole source contracts and **competitively bid** contracts with an independent contractor, ~~as well as the amount of savings generated by renegotiation of the contracts,~~ to the Purchasing Division, which must then report that information to the Interim Finance Committee.

Section 15 of this bill requires a person who is awarded a contract for a public work to ~~gather, maintain and~~ report to the public body awarding the contract certain information concerning the ~~hiring, wages,~~ race, ethnicity, **age** and gender of **certain employees and** applicants for employment on the public work. **Section 15** also requires that a public body awarding a contract for a public work must gather, compile, maintain and ~~report to~~ **enter on the Internet website of** the State Public Works Board certain information concerning the cost of the public work, the awarding of the contract, the race, ethnicity, **age**, gender, number of employees and length of time in business of the bidders for the contract, and the information received from the person awarded the contract concerning the applicants for employment on the public work. Finally, **section 15** requires that the State Public Works Board ~~must compile and maintain~~ **create an application on its Internet website for the entry of** the information ~~received by the Board~~ **that each public body is required to enter on the Internet website** in accordance with **section 15**, make the information available to the public and report the information annually to the Director of the Legislative Counsel Bureau.

Section 17 of this bill requires the ~~State Board of Examiners to review and approve in advance each contract for the provision of professional services entered into by the~~ Department of Transportation ~~to~~ **to post certain information relating to certain contracts for the provision of professional services entered into by the Department on or after July 1, 2011.**

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

Section 1. Chapter 281 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. *As used in sections 2 to 14, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Independent contractor" means a natural person, firm or corporation who agrees to perform services for a fixed price according to his, her or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.*

Sec. 4. *"Public body" means ~~fa state, county or municipal department, housing authority, agency or board. The term includes, without limitation, any~~ a:*

1. County;
2. City;
3. School district; or
4. State agency, bureau, board, commission, department or division or any other unit of the Legislative, Judicial or Executive Department of the State Government, including the Nevada System of Higher Education.

Sec. 5. *"Purchasing Division" means the Purchasing Division of the Department of Administration.*

Sec. 6. *"Sole source contract" means a contract entered into between a public body and an independent contractor to provide services for which the independent contractor is the only source capable of providing the services.*

Sec. 7. *Sections 2 to 14, inclusive, of this act ~~apply~~ :*

1. Apply to any contract for services of a person as an independent contractor entered into between a public body and an independent contractor ~~for~~, unless the contract for services is negotiated as part of a contract for the sale of goods with the same independent contractor.

2. Do not apply to any contract:

(a) For a public work governed by the provisions of chapter 338 of NRS;

or

(b) Relating to a franchise entered into by a local government.

Sec. 8. 1. *The Purchasing Division shall prescribe by regulation a code of conduct for independent contractors. The code of conduct must include, without limitation, provisions stating that the independent contractor:*

- (a) *Knows and agrees to abide by all applicable state ethics laws;*
- (b) *Agrees to maintain accurate internal records of all work done pursuant to a contract with a public body; and*
- (c) *Agrees to make the records kept pursuant to paragraph (b) available for inspection or audit by the Legislative Auditor and the Division of Internal Audits of the Department of Administration.*

2. *A public body may not enter into a contract with an independent contractor unless the independent contractor signs and agrees to abide by the code of conduct for contractors prescribed by the Purchasing Division pursuant to this section.*

Sec. 9. *An independent contractor who enters into a contract with a public body shall:*

1. *Fully disclose to the public body any fees that will be charged to ~~consumers~~ persons who are not a party to the contract as a part of the contract with the public body.*

2. *Report annually to the public body the total dollar amount ~~of~~ ~~income~~ generated by such fees.*

Sec. 10. *An independent contractor who enters into a contract with a public body shall:*

1. *Fully disclose to the public body:*

(a) *All subcontractors used ~~for intended to be used~~ by the independent contractor to perform the contract.*

(b) *The dollar amount that each subcontractor will be paid by the independent contractor.*

(c) *Any fees that will be charged to ~~consumers~~ persons who are not a party to the contract by each subcontractor as part of the contract with the public body.*

2. *Report annually to the public body the total dollar amount ~~of income~~ generated by the fees disclosed pursuant to paragraph (c) of subsection 1.*

Sec. 11. 1. ~~1.~~ Except as otherwise provided in subsection 2, a public body may not enter into a sole source contract unless the period of the sole source contract does not exceed 2 years.

~~2. A public body may not extend the period of an existing contract with an independent contractor unless the public body first opens the contract to competitive bidding.~~

~~3. If a public body enters into a contract with an independent contractor with a period that exceeds 2 years, the public body and the independent contractor shall renegotiate the terms of the contract on the second anniversary of the date that the contract was entered into and every 2 years thereafter.~~ A public body may enter into a sole source contract whose period exceeds 2 years if the longer period is necessary for the recovery of capital costs through extended amortization.

3. A public body may not renew a sole source contract unless the governing body of the public body approves the renewal by a two-thirds vote. For the purposes of this subsection, the governing body of a state agency is the State Board of Examiners.

Sec. 11.5. A public body may enter into a contract with an independent contractor, other than a sole source contract, for a period of not more than 4 years. Such a contract may be extended if the governing body of the public body that awarded the contract approves the extension by a two-thirds vote. For the purposes of this section, the governing body of a state agency is the State Board of Examiners.

Sec. 12. 1. *A public body that enters into a sole source contract shall transmit to the Purchasing Division information relating to the sole source contract, including, without limitation, the name of the public body, the name of the independent contractor and a brief description of the services for which the public body entered into the sole source contract.*

2. *The Purchasing Division shall post any information received pursuant to this section on its Internet website.*

Sec. 13. 1. *A public body that enters into a sole source contract or renegotiates a contract with an independent contractor shall report to the*

Purchasing Division before August 1 of each year, for the preceding fiscal year:

- (a) The number of sole source contracts entered into by the public body;*
- (b) The number of competitively bid contracts with an independent contractor entered into by the public body;*
- (c) The dollar amount of each sole source contract entered into by the public body;*
- (d) The dollar amount of each competitively bid contract with an independent contractor entered into by the public body; and*
- (e) The dollar amount of savings generated by renegotiations of all contracts with an independent contractor.*

2. The Purchasing Division shall, on or before September 1 of each year, prepare and submit to the Interim Finance Committee a report detailing the information received pursuant to subsection 1 for the previous fiscal year for all public bodies.

Sec. 14. If an independent contractor violates any provision of section 8, 9 or 10 of this act ~~and~~

~~*1. The public body may terminate the contract with the independent contractor. ~~and~~*~~

~~*2. The independent contractor is permanently prohibited from entering into a contract with a public body.*~~

Sec. 15. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A public body which awards a contract for a public work shall:

(a) Gather and maintain, for every person who submits a bid or otherwise competes for the contract, the following information:

- (1) The cost of the public work;*
- (2) Whether the person was awarded the contract;*
- (3) The race, ethnicity, age and gender of the person;*
- (4) The number of employees of the person at the time the person submitted the bid; and*
- (5) The length of time for which the person had been in business at the time the person submitted the bid;*

(b) Include in the contract a clause requiring the person who is awarded the contract to:

(1) Gather and maintain the information required by subsection 2; and

(2) Report and update the information as required by subsection 2;

(c) Compile and maintain the information reported to the public body pursuant to subsection 2 by the person who is awarded the contract; ~~and~~

~~*(d) Report to*~~ *Enter or cause to be entered through the application on the Internet website of the State Public Works Board created pursuant to paragraph (a) of subsection 3 the information which the public body:*

(1) Gathers and maintains pursuant to paragraph (a) ~~and~~ within 30 days after the opening of bids; and

(2) Compiles and maintains pursuant to paragraph (c) ~~##~~; and
(e) Deem a bid that does not contain the information that the public body is required to gather and maintain pursuant to paragraph (a) to be not responsive.

2. The person who is awarded the contract by the public body shall ~~be~~
~~(a) Gather and maintain, for every applicant for employment on the public work with the person who is awarded the contract and with every~~ require each contractor, subcontractor and other person who provides labor, equipment, materials, supplies or services for the public work ~~of~~ the following information:

~~(1) The wages being offered for the job;~~
~~(2) Whether the applicant was hired for the job; and~~
~~(3) The race, ethnicity and gender of the applicant; and~~
~~(b) Report to the public body the information gathered and maintained pursuant to paragraph (a) ~~of~~ to:~~

(a) Identify the race, ethnicity, age and gender, if known, of every person reported on the certified payroll of the contractor, subcontractor or other person; and

(b) Submit a report to the public body following the conclusion of the public work which identifies the race, ethnicity, age and gender, if known, of each person who, during the duration of the contract for the public work, applied for employment on the public work and the wage or salary of the job for which the person applied.

↳ The provisions of this subsection apply only with respect to employees and applicants for employment who applied directly to the contractor, subcontractor or other person for employment rather than applying for employment through another entity such as an employment agency or trade union.

3. The State Public Works Board shall:

~~(a) ~~Compile and maintain the information reported by a public body pursuant to subsection 1;~~~~ Create an application on its Internet website for a public body to enter or cause to be entered the information gathered and maintained by the public body pursuant to subsection 1 that does not allow for the entry of any personal information, as that term is defined in NRS 603A.040;

~~(b) Make available to the public the information ~~compiled and maintained~~ entered pursuant to paragraph (a) ~~after removing any personal information, as that term is defined in NRS 603A.040;~~~~ and

~~(c) Report annually the information ~~compiled and maintained~~ entered pursuant to paragraph (a) to the Director of the Legislative Counsel Bureau in any format requested by the Director.~~

4. For the purposes of subsection 1, if a person who submits a bid or otherwise competes for the contract is:

(a) A design-build team, the public body must gather and maintain the required information for each member of the design-build team.

(b) Not a natural person, the public body must gather and maintain the required information, if known, for each natural person who ~~owns or controls all or a portion of~~ holds a controlling interest in the person who submits the bid or otherwise competes for the contract.

Sec. 16. (Deleted by amendment.)

Sec. 17. Chapter 408 of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. Before the Department enters into a contract with a professional who is not a member of a design-build team for the provision of services, the Department must submit the proposed contract to the State Board of Examiners. The contract does not become effective without the prior approval of the State Board of Examiners.~~

~~2. The State Board of Examiners shall review each contract submitted for approval pursuant to subsection 1 to consider:~~

~~(a) Whether sufficient authority exists to expend the money required by the contract; and~~

~~(b) Whether the service which is the subject of the contract could be provided by a state agency or employee in a more cost-effective manner.~~

~~3. If the contract submitted for approval continues an existing contractual relationship, the State Board of Examiners shall require the Department to ensure that the Department is receiving the services that the contract purports to provide.~~

~~3.7~~ For any contract with a professional who is not a member of a design-build team for the provision of services entered into by the Department on or after July 1, 2011, within 30 days after entering into the contract, the Department shall post information relating to the contract on its Internet website, including, without limitation, the name of the professional, a brief description of the services for which the Department entered into the contract and the cost of the contract.

2. As used in this section, "professional" includes, without limitation, an architect, an attorney, an engineer, a landscape architect and a surveyor.

Sec. 18. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 18.5. 1. Contracts entered into before October 1, 2011, are not subject to the provisions of sections 1 to 14, inclusive, of this act.

2. Contracts entered into before July 1, 2011, are not subject to the provisions of sections 15 and 17 of this act.

Sec. 19. Before October 1, 2011, the Purchasing Division of the Department of Administration shall adopt any regulations required by section 8 of this act.

Sec. 20. 1. This section and sections 18, 18.5 and 19 of this act become effective upon passage and approval.

2. Sections 1 to 14, inclusive, of this act become effective:

- (a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks; and
 - (b) On October 1, 2011, for all other purposes.
3. Sections 15, ~~15, 16~~ and 17 of this act become effective on July 1, 2011.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

Senate Bill No. 359, as amended, revises provisions pertaining to contracts entered into by public bodies, which are defined as counties, cities, school districts and state agencies, boards and commissions. The bill prohibits public bodies from entering into a contract with an independent contractor unless the independent contractor agrees to a code of conduct. The code of conduct requires independent contractors to abide by all State ethics laws and to maintain accurate internal records of all work done pursuant to the contract with a public body and agrees to make all records available for inspection and audit.

Senate Bill No. 359 requires independent contractors to disclose fees charged to persons who are not a party to the contract and to annually report the total dollar amount of such fees. The bill also prohibits a public body from entering into a sole source contract for a period exceeding two years unless the longer period is necessary to recover capital costs. Public bodies are also prohibited from renewing a sole source contract unless the governing body of the public body approves the renewal by a two-thirds vote. Public bodies are authorized to enter into a contract with an independent contractor, other than a sole source contract, for a period of not more than four years, and to extend the period of such a contract if the governing body of the public body approves the extension by a two-thirds vote. Public bodies must report information relating to the number and dollar amount of the sole source contracts and competitively bid contracts with an independent contractor to the Purchasing Division, which must then report that information to the Interim Finance Committee.

Senate Bill No. 359 requires a person who is awarded a contract for a public work to report to the public body awarding the contract certain information concerning race, ethnicity, age and gender of certain employees and applicants for employment on the public work.

Finally, Senate Bill No. 359 requires that a public body awarding a contract for a public work must gather, compile, maintain and enter on the Internet website of the State Public Works Board certain information concerning the cost of the public work, the awarding of the contract, the race, ethnicity, age, gender, number of employees and length of time in business of the bidders for the contract, and the information received from the person awarded the contract concerning the applicants for employment on the public work.

Senate Bill No. 359 is effective upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks and October 1, 2011 for all other purposes.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

UNFINISHED BUSINESS
SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 6, 10, 12, 13, 15, 17, 21, 25, 33, 38, 45, 58, 63, 66, 67, 79, 109, 117, 137, 157, 167, 196, 209, 328, 331, 353, 368, 387, 390, 441, 495; Senate Joint Resolution No. 4; Assembly Bills Nos. 19, 29, 109, 138, 154, 170, 227, 237, 246, 248, 249, 253, 254, 276, 280, 290, 292, 306, 313, 317, 318, 368, 373, 395, 396, 420, 451, 454, 455, 472, 480, 481, 483, 533, 534, 535, 544, 564, 566; Assembly Joint Resolution No. 1.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator McGinness, the privilege of the Floor of the Senate Chamber for this day was extended to the following students from the Grace Christian Academy: Ruth Boogman, Julia Dreyer, Jo Tkaczyk, Sebastian Zeron, Jefferson Cummings, Megan Penwell, Blake Ranalla, Jacob Rodriguez, Ilena Madraso, Tracey Cummings and Karina Madraso.

On request of Senator Roberson, the privilege of the Floor of the Senate Chamber for this day was extended to students from the Advanced Technologies Academy.

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to Branch Rickey and Donald Logan.

Senator Horsford moved that the Senate adjourn until Friday, May 27, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 3:27 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate