

THE SEVENTY-FOURTH DAY

CARSON CITY (Thursday), April 18, 2013

Senate called to order at 11:35 a.m.

President Krolicki presiding.

Roll called.

All present except for Senator Segerblom, who was excused.

Prayer by the Chaplain, Pastor Larry Unterseher.

Let us pray.

Father God, in the quietness of this Chamber we stand humbly in Your presence, remembering our friend John Marvel, pleading for comfort for the victims and families in West, Texas and asking Your blessing on the activities of this day. Each of these men and women of valor—Senators and support staff alike—stand eager and willing to face the challenges set before them. Give them the ability to see through Your eyes as they continue to cast the vision for us now and for future generations to come.

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

We pray in Your most Holy and precious Name.

AMEN.

Pledge of Allegiance to the Flag.

The President announced that under previous order, the reading of the Journal is waived for the remainder of the 77th Legislative Session and the President and Secretary are authorized to make any necessary corrections and additions.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Senate Bills Nos. 127, 329, 359, 422, 454, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chair*

Mr. President:

Your Committee on Education, to which was referred Senate Bill No. 164, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Education, to which was referred Senate Bill No. 504, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and re-refer to the Committee on Finance.

JOYCE WOODHOUSE, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 31, 103, 104, 107, 111, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TICK SEGERBLOM, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Bills Nos. 283, 325, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

PAT SPEARMAN, *Chair*

Mr. President:

Your Committee on Revenue and Economic Development, to which were referred Senate Bills Nos. 84, 152, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Revenue and Economic Development, to which was referred Senate Bill No. 400, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and re-refer to the Committee on Finance.

RUBEN J. KIHUEN, *Chair*

Mr. President:

Your Committee on Transportation, to which were referred Senate Bills Nos. 179, 387, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK A. MANENDO, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 17, 2013

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 487.

Also, I have the honor to inform your honorable body that the Assembly on this day passed Assembly Joint Resolution No. 7.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 73, 95, 120, 131, 179, 185, 231, 266, 286, 324, 331, 356, 437.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 18, 2013

The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the eligibility for exemption of: Assembly Bill No. 396.

CINDY JONES

Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Joint Resolution No. 7.

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

Motion carried.

Senator Smith moved that Senate Bills Nos. 68, 74, 94, 140, 183, 192, 229, 314, 373, 420, 450, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 73.

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

Motion carried.

Assembly Bill No. 95.

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

Motion carried.

Assembly Bill No. 120.

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

Motion carried.

Assembly Bill No. 131.

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

Motion carried.

Assembly Bill No. 179.

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

Motion carried.

Assembly Bill No. 185.

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

Motion carried.

Assembly Bill No. 231.

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

Motion carried.

Assembly Bill No. 266.

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

Motion carried.

Assembly Bill No. 286.

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

Motion carried.

Assembly Bill No. 324.

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

Motion carried.

Assembly Bill No. 331.

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

Motion carried.

Assembly Bill No. 356.

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

Motion carried.

Assembly Bill No. 437.

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

Motion carried.

Assembly Bill No. 487.

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

Motion carried.

Senator Denis moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 11:59 a.m.

SENATE IN SESSION

At 12:20 p.m.

President Krolicki presiding.

Quorum present.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 18, 2013

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day adopted Assembly Concurrent Resolution No. 5.

MATTHEW Baker
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 5—Memorializing former Assemblyman John W. Marvel. —

WHEREAS, The State of Nevada lost a true statesman and steadfast public servant on March 16, 2013, and the members of the Nevada Legislature note with sorrow the passing of one of their most highly regarded former colleagues; and

WHEREAS, John Wyland Marvel was born in Battle Mountain, Nevada, on September 11, 1926, and, after graduating as valedictorian of his class at Battle Mountain High School, served in the United States Army's 19th Infantry Regiment during World War II and was honored for

his service with the Asiatic-Pacific Campaign Medal, the Army of Occupation Medal and the World War II Victory Medal; and

WHEREAS, After earning a bachelor of arts degree at the University of Nevada, Reno, in 1951, Mr. Marvel built a career as business manager of and working cowboy with one of the largest ranching operations in Nevada history, W.T. Jenkins Co., which was founded by his grandfather, and later he acquired and operated the Dunphy Ranch in Eureka County for over two decades; and

WHEREAS, This native Nevadan remained a loyal advocate for agricultural industries and the interests of this State's rural counties after he ran for the Nevada Assembly and was first elected in 1978, serving for 30 years, including 15 regular and 11 special sessions; and

WHEREAS, Assemblyman Marvel served as an invaluable member and leader of many legislative committees and contributed to forming countless public policies affecting the people of the State of Nevada, though he was proudest of his legislative efforts to support education, to secure funding for the University of Nevada School of Medicine and to reform the prison system, tax structure and water laws of this State; and

WHEREAS, Mr. Marvel earned distinction during his service in the Nevada Legislature through his contributions to national and regional legislative organizations, including the American Legislative Exchange Council and the Western Legislative Conference, and in 2009 was added to the Assembly Wall of Distinction; and

WHEREAS, A recognized expert in many fields, this distinguished Nevadan served as Chairman of the Nevada Tax Commission and the Lander County Planning Commission and as a member of the Advisory Council to the National Public Land Law Review Commission and, after his legislative service, served on the Nevada Commission on Ethics; and

WHEREAS, Mr. Marvel will be fondly remembered by those who have had the good fortune to work with him as a thoughtful, caring, down-to-earth, responsible man with a great sense of humor, who always thought of others' needs first; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the members of the 77th Session of the Nevada Legislature hereby extend their deepest condolences to former Assemblyman Marvel's wife Willie, his children Sharon, John and Michelle, and his brother Thomas; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to John's wife of more than 60 years, Willie Shidler Marvel.

Senator Smith moved the adoption of the resolution.

Remarks by Senators Smith, Denis, Brower, Goicoechea, Cegavske and President Krolicki.

SENATOR SMITH:

Thank you, Mr. President. I am so honored to rise today in support of Assembly Concurrent Resolution No. 5, memorializing my dear friend John Marvel. John served for 30 years in this building and he served with wisdom, integrity, hard work and good humor.

In 1985, he finally had the opportunity to Chair a standing committee of the Assembly and he was rewarded for his knowledge and past service with the chairmanship of the Assembly Committee on Ways and Means. I have been told that after he was given the chairmanship, in his cowboy way, he decided the Committee would meet at 7:00 a.m. each morning. There was a lot of whining from everyone except the cowboys and the ranchers. John continued to have the Committee meet at 7:00 a.m. We all know what a great job he did with that.

He was always remembered and noticed for his gentle good humor. John was patient and soft spoken, seldom angry, never rushed and never flustered. Those who didn't know him well sometimes underestimated him. But they soon learned to their cost that his quiet, unassuming demeanor concealed an acute talent for political calculation. They rarely made the mistake a second time.

He knew how to play his cards close to the chest and it was these formidable political talents that made him a force to be reckoned with in the Assembly. John was passionately devoted to the interests of rural Nevada. Those of you who served with him on the Public Lands Committee

will remember that when the Committee met in Ely, Elko, Battle Mountain or Winnemucca, he was always very proud to show the “city slickers” from Las Vegas a little bit of the “real” Nevada.

On a personal note, I would like to acknowledge John’s wife Willie. She was his most devoted constituent. Those of us who served with him would often see Willie sitting next to him on the Floor, being supportive. He did inspire that kind of loyalty from those who worked with him as well.

Assembly Concurrent Resolution No. 5 points out that John successfully sponsored legislation on a wide variety of subjects throughout his 30 years of service. Among those, he was proudest of his legislative efforts to support education, secure funding for the University of Nevada School of Medicine and to reform Nevada’s prison system, tax structure and water laws. We will all be eternally grateful for his efforts in those areas.

As was mentioned on the day of his passing, he had a very courageous vote during the 2003 Special Session of the Nevada Legislature that really supported the education system in this State. I was always appreciative that he was willing to make that courageous move.

On a very personal note, I grew up around John Marvel and this terrific family who is with us here today. I couldn’t be more pleased to be able to honor him today. His wife Willie was the Mother Advisor when I was a Rainbow Girl; our families and friends spent a lot of time together during my upbringing.

When I was first elected to the Nevada Legislature, John welcomed me as a colleague. I was so proud of that because I was new and he had so much experience. It did not matter that we were from different political parties, and it did not matter that we were of different generations. John was the consummate gentleman. He was a teacher and a mentor. I appreciate the time I had to serve with him greatly and I am certain my colleagues who had the privilege of serving with him feel the same. I hope those of you here who did not have the opportunity to serve alongside him will still learn from his legacy.

SENATOR DENIS:

I rise in support of Assembly Concurrent Resolution No. 5. It was eight years ago that I became a State Legislator and started my time in the other House. John Marvel was one of the first people I met. He is deserving of all the many things he accomplished in life. I appreciated the many things I learned from him.

John could be hard to understand. I thought others understood him when he spoke even though I sometimes did not; I later realized some people just did not want to ask a second time so they would just nod their heads even though they didn’t know what he was saying. When you would use the men’s restroom near the Assembly Chamber, you could smell the clove cigarettes he would smoke while hiding in there.

I really appreciate John’s family being here with us in the legislative building today. Again, I support this resolution.

SENATOR BROWER:

Thank you very much, Mr. President. It is a great privilege to be able to stand in support of Assembly Concurrent Resolution No. 5.

As I have mentioned on this Floor previously, I met John Marvel in 1998 when I was first elected to the Nevada Assembly. We became members of the same Caucus; he was the oldest member of the Assembly Republican Caucus at that time, and I was the youngest. Despite that fact, we became fast friends.

He was the kind of mentor that every young Legislator needs when they arrive here. I will never forget how warm and welcoming he was to me. At one point he invited me to join the Rural Caucus; I was honored, of course, not really knowing what it was—but it sounded good. I told him I was not sure I represented a rural district. He responded by telling me that, because I represented Washoe Valley at the time, since there were a few head of cattle in my district that was good enough. I decided I would do it and asked him what I should do next. He told me there was a Rural Caucus meeting every Monday at 7:00 a.m. that I would need to be at. I am getting to the point that my colleague from Senate District No. 13 mentioned.

I dutifully got up early on Monday mornings and drove from Reno down through Washoe Valley, cursing each and every cow I saw along the way. I really got to know John from my time in the Rural Caucus. I also got to know Dean Rhoads, Marcia de Braga, Lynn Hettrick and

Joe Dini. We love and respect our rural colleagues today, but back then, there were a whole lot of them and they were a powerful group. The Rural Caucus was a great group to be a part of.

The Majority Leader reminded me that whenever I sought out John's advice on something, which was often, I couldn't always find him in his office. If I could smell smoke coming out of the men's restroom from my office located right next door, I would often wait outside of the restroom door for him. If I was impatient—and I often was back then—I would just go into the men's restroom and sometimes sit in the stall next him and tell him I was there and had a question. We would have our meetings right there and then. He was one of a kind.

I will never forget a dinner I enjoyed with John. A few of us were in Washington, D.C., for a conference of some sort. I went out to dinner with John, at his insistence. Bill Raggio and Dean Rhoads were there too. I learned more about the Legislature and the legislative process during that two-hour dinner than I ever learned sitting here in this building. John was a great mentor.

Finally, as I said a few weeks ago upon learning of John's passing, with the loss of John Marvel we lose another member of the Greatest Generation. John and hundreds of thousands of men like him won World War II and they are the reason we are able to sit here and engage in our friendly, and not so friendly, debates; we are able to peacefully resolve the civil conflicts we have over policy issues. John's presence will forever be felt in this building. I am lucky to have known him and to have served with him.

SENATOR GOICOECHEA:

Thank you, Mr. President. I rise, not so much to speak to the Assembly Concurrent Resolution No. 5, but to speak about John Marvel, the man. John Marvel was a cowboy's cowboy. His nephews and his son are famous in their own realm, and his brother Tom is a real horseman. But I remember John Marvel saying, "pitch him his head and let him buck." He was not afraid of anything that wore hair.

He was also a rancher in Eureka County; I knew him and his family well. My wife Gladys had a wonderful bond with John Marvel; they would travel 200 miles to hug each other. My wife, who will be here tomorrow, will drive 250 miles to be at his memorial tomorrow. She thinks very much of him and his family.

I remember the contentious vote of the 2003 Special Session of the Nevada Legislature; it never ruffled his head. "Pitch him his head, let him buck."

SENATOR CEGAUSKE:

Thank you, Mr. President. It makes my heart full to see John Marvel's family here. John is always with us in our hearts. I remember the times John's family sat on the Floor with him; I appreciate all of the conversations we had when they did. I had the privilege of spending three terms in the Assembly with John Marvel and Lynn Hettrick, who was the Assistant Minority Leader at the time. Lynn served 14 years with John. I have so many wonderful memories and I cherish every single one. I learned a lot from not only John, but from Senator Jacobsen. Together, they were terrific mentors, terrific people.

I would like to thank my colleague from Senate District No. 19 for aptly describing the "cowboy's cowboy." I had the honor of being inducted into the Cowboy Hall of Fame; a real treasure.

I have to share with you: his granddaughter shared a story, when she interned here, about John's smoking. We all have different, funny stories about being around clove cigarettes; this building is the first place I ever smelled them. He was in his office and his granddaughter noticed something smelled wrong. She asked him if he knew; he played innocent like he wasn't smoking. She went into his office and saw his desk drawer had smoke coming out of it. He set the envelopes on fire in his drawer by putting his cigarette out in there.

I learned more about the prison industry from John Marvel and Senator Jacobsen. I also learned what it is to be a good public servant. My hats off to each and every one of the family members. What a wonderful mentor he has been and a wonderful person. God bless you and please give Willie a hug and a kiss for me.

MR. PRESIDENT:

I have had the pleasure of traveling the State for decades and when you are in rural Nevada, you are with Willie and John Marvel. They were inseparable. He would speak in gravelly bursts

and be hard to understand sometimes, but he always got your attention. His personal kindnesses to me, and from Willie, are something I will always be very grateful for. He truly lived a marvelous life. Thank you all for being with us today.

Resolution adopted unanimously.

Resolution ordered transmitted to the Assembly.

Senator Denis moved that the Senate recess subject to the call of the Chair.
Motion carried.

Senate in recess at 12:41 p.m.

SENATE IN SESSION

At 12:46 p.m.

President Krolicki presiding.

Quorum present.

SECOND READING AND AMENDMENT

Senate Bill No. 36.

Bill read second time.

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

Amendment No. 45.

"SUMMARY—Makes various changes concerning unemployment compensation. (BDR 53-371)"

"AN ACT relating to employment; ~~requiring the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to establish a program of shared work unemployment compensation upon approval of the United States Secretary of Labor; exempting from certain taxes wages paid by certain employers participating in such a program;~~ establishing provisions for the collection of money owed to the Employment Security Division ~~of the Department of Employment, Training and Rehabilitation;~~ establishing a waiting period of 1 week as an additional condition of eligibility for unemployment compensation benefits; revising provisions concerning unemployment compensation fraud; providing for the transfer of an employer's liabilities to the Division upon the transfer of the employer's trade or business; prohibiting the relief of an employer's record for experience rating of charges for benefits under certain circumstances; assigning liability for the payment of money owed to the Division upon the transfer of certain assets; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~f At least 18 states have established what are commonly referred to as "work sharing programs." Under such programs, an employer, in lieu of imposing layoffs as a means to reduce labor costs, retains workers who would otherwise be laid off and reduces the normal weekly hours of work for those and other workers to produce a comparable reduction in labor costs. If the employer carries out those reductions as a participant in a work sharing~~

~~program established by the state agency that administers the state's unemployment compensation insurance program, the agency treats the workers as unemployed for the number of hours by which their normal weekly hours of work are reduced and the workers are entitled to receive unemployment compensation benefits for those hours. The payment of such benefits under a state's unemployment compensation insurance laws is expressly authorized by federal law if the Secretary of Labor has approved what federal law refers to as the state's "short time compensation program." (26 U.S.C. § 3304)~~

~~Section 5 of this bill requires the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to establish a program of shared work unemployment compensation for this State upon approval of the program by the United States Secretary of Labor. Sections 2-4 and 6-11 of this bill establish other provisions necessary for the operation of the program. Sections 20 and 22 of this bill amend provisions of existing law concerning eligibility for benefits and calculation of benefits to accommodate workers affected by a shared work program. Finally, section 29 of this bill provides employers who participate in the program with a partial tax exemption from what is commonly called the modified business tax. This quarterly excise tax is imposed on certain businesses other than financial institutions and calculated as a percentage of the amount of wages paid by the business during the quarter. (NRS 363B.110) The Legislature in 2011 imposed a temporary increase in the amount of the tax on wages paid by an employer in excess of \$62,500 during a quarter from 0.63 percent of the amount of the wages to 1.17 percent of that amount. (NRS 363B.110) This temporary increase expires on June 30, 2013. (Chapter 476, Statutes of Nevada 2011, p. 2898) Nevertheless, if that temporary rate, or a substantially similar rate, is still in effect when the program of shared work unemployment compensation is established by the Division and approved by the Secretary of Labor, section 29 exempts the wages paid by an employer during a quarter to workers affected by an approved plan of work sharing from any portion of the modified business tax which exceeds 0.63 percent of the amount of such wages.]~~

Under existing law, the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation is authorized to bring actions in district court for the repayment of fraudulently obtained benefits or to recover amounts owed to the Division by persons who commit unemployment insurance fraud. (NRS 612.365, 612.445) Sections 12-19 and 21 of this bill establish an additional method for the collection of such money. This method is modeled after the method used by the Division of Welfare and Supportive Services of the Department of Health and Human Services to enforce a court order that requires a person to make payments for the support of a child. (NRS 31A.025-31A.190) Section 12 provides that if the Administrator obtains a judgment against a person who has fraudulently

obtained benefits or committed unemployment compensation fraud, the Administrator may, in addition to any other manner of executing the judgment provided by law, require each employer of the person to withhold income from the person's wages and pay it to the Division. Sections 13-19 establish provisions for: (1) notifying a person whose income is to be withheld; (2) issuing a notice to withhold income to a person's employer; (3) establishing an employer's duties with respect to the withholding of income; (4) providing penalties for an employer's violation of those duties; and (5) providing an employer with immunity from any civil action for any conduct taken in compliance with a notice to withhold income. Section 23 of this bill revises existing law concerning unemployment insurance fraud by: (1) providing that, in general, the Administrator may issue an initial determination finding that a person has committed such fraud at any time within 4 years after the first day of the benefit year in which the person committed the fraud; and (2) revising other provisions concerning the period during which the person is disqualified from receiving further benefits and the amount of the penalties that may be imposed.

Existing law provides that an unemployed person is not eligible to receive benefits unless the Administrator finds that the person satisfies certain conditions. (NRS 612.375) Section 22 of this bill adds an additional condition for such eligibility: the person must have been unemployed and otherwise eligible for benefits for a waiting period of 1 week within the person's current benefit year, during which no benefits were paid. All but 12 states currently include such a waiting period in their unemployment compensation laws.

Under existing law, an employer's contribution rate is based on the employer's experience rating, which reflects the amount of unemployment compensation benefits that are paid to former employees and charged to the employer's record for experience rating. Existing law also provides for the transfer of some or all of an employer's record for experience rating when the employer transfers its trade or business to another employer. (NRS 612.550) Section 24 of this bill provides that if the transferring employer is liable to the Division for unpaid contributions, interest or forfeits, a percentage of that liability must also be transferred to the other employer. The percentage of liability transferred must be the same as the percentage of the experience record transferred.

Under existing law, an employer who receives notice that a former employee has filed a claim for benefits is required to provide the Division with all relevant facts which may affect the claimant's rights to benefits within 11 days after the Division mails the notice of the claim. (NRS 612.475) The amounts of any benefits paid to that claimant are charged to the employer's record for experience rating unless circumstances exist which entitle the record to be relieved of such charges. (NRS 612.551) Section 25 of this bill provides that an employer's record for experience rating is not entitled to be relieved of charges for the amount of any benefits

erroneously paid to a claimant if the employer failed to submit timely all the information as required. ~~For if the employer has established a pattern of such failures.~~ This change is required to comply with federal law. (Trade Adjustment Assistance Extension Act of 2011, Pub. L. No. 112-40, § 252, 125 Stat. 402, 421-22)

Under existing law, an employer who, outside the usual course of business, sells certain assets and quits business is required to pay to the Division the amount of all contributions, interest or forfeits accrued and unpaid on account of wages paid by the employer up to the date of the sale. If the seller fails to do so within 10 days after the sale, the purchaser of the assets becomes personally liable for the payment of those amounts. (NRS 612.695) Section 26 of this bill extends those provisions to apply in cases of the transfer of the assets of a business by means other than a sale.

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

Section 1. Chapter 612 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this act.

Sec. 2. ~~As used in sections 2 to 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.~~ (Deleted by amendment.)

Sec. 3. ~~"Affected worker" means a worker whose normal weekly hours of work for his or her regular employer are reduced by the employer in accordance with a plan of work sharing.~~ (Deleted by amendment.)

Sec. 4. ~~"Normal weekly hours of work" means 40 hours or the number of hours that a worker normally would work for his or her regular employer during a week in which the worker's hours are not affected by a layoff or plan of work sharing, whichever is less.~~ (Deleted by amendment.)

Sec. 5. ~~1. The Administrator shall establish and maintain a program of shared work unemployment compensation to pay benefits under this chapter to eligible workers whose normal weekly hours of work are reduced by an employer in accordance with a plan of work sharing that is approved by the Administrator.~~

~~2. The program of shared work unemployment compensation must be approved by the Secretary of Labor, pursuant to 26 U.S.C. § 3304, as a short time compensation program.~~

~~3. The Administrator shall adopt regulations to carry out the provisions of sections 2 to 11, inclusive, of this act.~~ (Deleted by amendment.)

Sec. 6. ~~1. An employer who, in lieu of imposing layoffs, wishes to participate in the program of shared work unemployment compensation established by the Administrator pursuant to section 5 of this act must submit a proposed plan of work sharing to the Administrator for approval. The plan must be submitted in the form and manner prescribed by the Administrator and include, without limitation:~~

~~(a) A brief description of the circumstances that would cause the employer to impose layoffs if the plan of work sharing is not approved, including, without limitation, the amount of money that the layoffs or plan of work sharing are intended to save during the period that the layoffs or plan of work sharing would be in effect;~~

~~(b) Information concerning each affected worker, including, without limitation, the worker's name, social security number and normal weekly hours of work;~~

~~(c) The proposed effective and expiration dates for the plan; and~~

~~(d) Any information required pursuant to regulations adopted by the Administrator.~~

~~2. An employer who has imposed layoffs before submitting a proposed plan of work sharing pursuant to subsection 1 may submit a proposed plan of work sharing which provides that, if the plan is approved by the Administrator, workers previously laid off will be rehired subject to reductions in their hours of work from their previous normal weekly hours of work in accordance with the plan.] (Deleted by amendment.)~~

Sec. 7. ~~[1. The Administrator shall not approve a plan of work sharing submitted by an employer pursuant to section 6 of this act unless:~~

~~(a) The employer certifies that reducing the normal weekly hours of work of affected workers in accordance with the plan is in lieu of imposing layoffs;~~

~~(b) The plan reduces the normal weekly hours of work of each affected worker by not less than 10 percent and not more than 50 percent;~~

~~(c) If any affected workers are covered by a collective bargaining agreement, the bargaining agent designated in the agreement consents to the plan;~~

~~(d) The plan is consistent with any obligation imposed on the employer by any state or federal law or regulation;~~

~~(e) The employer certifies that, if the employer provides health benefits and retirement benefits under a defined benefit plan or contributions under a defined contribution plan to an affected worker, the employer will continue to provide the benefits or contributions to the affected worker under the same terms and conditions as if the worker's normal weekly hours of work had not been reduced in accordance with the plan or to the same extent as other workers whose normal weekly hours of work are not reduced in accordance with the plan; and~~

~~(f) The employer satisfies all other requirements established by the Administrator for participation in the program of shared work unemployment compensation.~~

~~2. The Administrator shall approve or reject a plan of work sharing submitted by an employer within 15 days after the Administrator receives the plan.] (Deleted by amendment.)~~

Sec. 8. ~~[1. A plan of work sharing that is approved by the Administrator pursuant to section 7 of this act is effective for the purpose of paying benefits under this chapter to affected workers for a period~~

~~established by the Administrator unless the plan is revoked by the Administrator or cancelled by the employer before the expiration date established by the Administrator. A plan may not be effective for this purpose for more than 52 weeks.~~

~~2.—The Administrator shall not revoke an approved plan of work sharing before its expiration date except for good cause.~~

~~3.—An employer who wishes to cancel an approved plan of work sharing before its expiration date must provide notice to the Administrator in the form and manner required by the Administrator.~~ (Deleted by amendment.)

Sec. 9. ~~[1.—An employer conducting business under an approved plan of work sharing shall notify the Administrator of:~~

~~(a) Any change in circumstances that materially affects the employer's operations under the plan;~~

~~(b) Any change in the reduction in the normal weekly hours of work of affected workers from the reduction established in the plan; and~~

~~(c) The identity of each affected worker who enters or leaves the plan.~~

~~2.—An employer may modify an approved plan of work sharing if the Administrator approves the modification. The employer must request the approval of the modification in the form and manner prescribed by the Administrator. The modification shall be deemed to be approved unless the Administrator notifies the employer, within 10 days after the Administrator receives the request, that the modification is rejected. A modification may not extend the period during which the plan is effective for the purpose of paying benefits under this chapter to more than 52 weeks.~~

~~3.—An employer whose plan of work sharing is approved by the Administrator shall provide to the Administrator, upon request, all records, including, without limitation, payroll records, time records and tax returns, that the Administrator determines are necessary to ensure the propriety of payments of benefits under the plan. If an employer fails to provide the records when requested, the Administrator:~~

~~(a) Shall revoke the employer's plan of work sharing; and~~

~~(b) May assess the employer for the amount of any benefits improperly paid as a result of the employer's failure to provide the records.~~ (Deleted by amendment.)

Sec. 10. ~~[1.—For the purposes of sections 2 to 11, inclusive, of this act, a person shall be deemed to be unemployed in any week during which the person works at least 10 percent fewer hours for his or her regular employer than the person's normal weekly hours of work if the Administrator finds that the reduction in the number of hours worked by the person is attributable to a plan of work sharing that has been approved by the Administrator.~~

~~2.—An unemployed person is eligible to receive benefits under this section with respect to any week only if the Administrator finds that with respect to that week the person is eligible to receive benefits under this chapter, except that the person:~~

~~(a) Is not required to register for work or report at an office of the Division pursuant to paragraph (a) of subsection 1 of NRS 612.375;~~

~~(b) Is not subject to the waiting period of 1 week required by paragraph (c) of subsection 1 of NRS 612.375; and~~

~~(c) Shall be deemed to be in compliance with paragraph (c) of subsection 1 of NRS 612.375, if the person:~~

~~(1) Unless excused by his or her regular employer, works the full number of hours during the week that the person is scheduled to work under the employer's plan of work sharing; and~~

~~(2) Is available to work for his or her regular employer during the hours of the person's normal weekly hours of work that the person is not scheduled to work under the plan.~~

~~3. Except as otherwise provided in this section, a person who is eligible for benefits under this section for any week must be paid a benefit in an amount equal to the person's weekly benefit amount for 1 week of total unemployment multiplied by the percentage of the reduction in the person's normal weekly hours of work attributable to his or her employer's approved plan of work sharing. The benefit must be reduced by 75 percent of any remuneration payable to the person for personal services performed during that week, other than remuneration payable for the hours of work that the person was scheduled to work under the approved plan of work sharing. The benefit, if not a multiple of \$1, must be computed to the next lower multiple of \$1.~~

~~4. An otherwise eligible person may not be:~~

~~(a) Denied benefits under this section during any week in which the person participates in a training program to enhance his or her job skills that is sponsored by the person's regular employer or funded under the Workforce Investment Act of 1998, 29 U.S.C. §§ 2801 et seq. and approved by the Administrator; or~~

~~(b) Paid benefits under this section for more than 26 weeks in any benefit year.~~

~~5. For the purposes of NRS 612.355, the amount of benefits paid to a person under this section during a benefit year must be included when computing the total amount of benefits under this chapter to which the person is entitled for the benefit year.~~

~~6. A person who is eligible to receive benefits under this section with respect to any week is not eligible to receive extended benefits or additional benefits under NRS 612.377 to 612.3786, inclusive, with respect to that week.~~ (Deleted by amendment.)

Sec. 11. ~~[Except when the result would be inconsistent with the provisions of sections 2 to 11, inclusive, of this act and any regulations adopted pursuant thereto, the provisions of this chapter, other than the provisions concerning extended benefits and additional benefits set forth in NRS 612.377 to 612.3786, inclusive, apply to sections 2 to 11, inclusive, of this act.]~~ (Deleted by amendment.)

Sec. 12. *If the Administrator obtains a judgment against a person for:*

1. *The repayment of benefits obtained due to the person's fraud, misrepresentation or willful nondisclosure pursuant to NRS 612.365; or*

2. *The recovery of amounts owed to the Division for committing unemployment insurance fraud in violation of NRS 612.445,*

↪ the Administrator may, in addition to any other manner of executing the judgment provided by law, require each employer of the person to withhold income from the person's wages and pay it over to the Division in accordance with the provisions of sections 12 to 19, inclusive of this act.

Sec. 13. *The Administrator shall provide to a person who is subject to the withholding of income pursuant to section 12 of this act a notice sent by first-class mail to the person's last known address:*

1. *That his or her income is being withheld;*

2. *That a notice to withhold income applies to any current or subsequent employer;*

3. *That a notice to withhold income has been mailed to his or her employer;*

4. *Of the information provided to his or her employer pursuant to section 14 of this act;*

5. *That he or she may contest the withholding; and*

6. *Of the grounds and procedures for contesting the withholding.*

Sec. 14. 1. *The Administrator shall mail, by first-class mail, a notice to withhold income pursuant to section 12 of this act to each employer of the person who is subject to the withholding.*

2. *If an employer does not begin to withhold income from the person in accordance with section 15 of this act after receiving the notice to withhold income that was mailed pursuant to subsection 1, the Administrator shall, by certified mail, return receipt requested, mail to the employer another notice to withhold income.*

3. *A notice to withhold income pursuant to section 12 of this act may be issued electronically and must:*

(a) *Contain the social security number of the person;*

(b) *Specify the total amount to be withheld from the income of the person, including any interest, penalties or assessments accrued pursuant to the provisions of this chapter;*

(c) *Describe the limitation for withholding income prescribed in NRS 31.295;*

(d) *Describe the prohibition against terminating the employment of a person because of withholding and the penalties for wrongfully refusing to withhold in accordance with the notice to withhold income; and*

(e) *Explain the duties of an employer upon the receipt of the notice to withhold income.*

Sec. 15. *An employer who receives a notice to withhold income pursuant to section 12 of this act shall:*

1. Withhold the amount stated in the notice from the income due to the person beginning with the first pay period that occurs within 14 days after the date the notice was mailed to the employer and continuing until:

(a) The Administrator notifies the employer to discontinue the withholding; or

(b) The full amount required to be paid to the Administrator has been paid, as indicated by a written statement to the employer from the Administrator;

2. Calculate the amount of income to be withheld from a person's wages during each pay period in accordance with the provisions of NRS 31.295 and subject to the limitation on withholding prescribed in that section. For the purposes of this subsection, a withholding of income shall be deemed a garnishment of earnings.

3. Deliver the money withheld to the Administrator within 7 days after the date of each payment of the regularly scheduled payroll of the employer; and

~~3.~~ 4. Notify the Administrator when the person subject to withholding terminates his or her employment and provide the last known address of the person and the name of any new employer of the person, if known.

Sec. 16. 1. A notice to withhold income pursuant to section 12 of this act is binding upon any employer of the person to whom it is mailed. To reimburse the employer for his or her costs in making the withholding, the employer may deduct \$3 from the amount paid to the person each time the employer makes a withholding.

2. Except as otherwise provided in subsection 3, if an employer receives notices to withhold income pursuant to section 12 of this act for more than one employee, the employer may consolidate the amounts of money that are payable to the Administrator and pay those amounts with one check, but the employer shall attach to each check a statement identifying by name and social security number each person for whom payment is made and the amount transmitted for that person.

3. If the provisions of NRS 353.1467 apply, the employer shall make payment to the Administrator by any method of electronic transfer of money allowed by the Administrator. If an employer makes such payment by electronic transfer of money, the employer shall transmit separately the name and appropriate identification number, if any, of each person for whom payment is made and the amount transmitted for that person.

4. As used in this section, "electronic transfer of money" has the meaning ascribed to it in NRS 353.1467.

Sec. 17. 1. It is unlawful for an employer to use the withholding of income to collect an obligation to pay money to the Administrator as a basis for refusing to hire a potential employee, discharging an employee or taking disciplinary action against an employee. Any employer who violates this section shall hire or reinstate any such employee with no loss of pay or benefits, is liable for any amounts not withheld and shall be fined \$1,000. If

an employee prevails in an action based on this section, the employer is liable, in an amount not less than \$2,500, for payment of the employee's costs and attorney's fees incurred in that action.

2. If an employer wrongfully refuses to withhold income as required pursuant to sections 12 to 19, inclusive, of this act or knowingly misrepresents the income of an employee, the employer shall pay the amount the employer refused to withhold to the Administrator and may be ordered to pay punitive damages to the Administrator in an amount not to exceed \$1,000 for each pay period the employer failed to withhold income as required or knowingly misrepresented the income of the employee.

Sec. 18. 1. If an employer wrongfully refuses to withhold income as required pursuant to sections 12 to 19, inclusive, of this act, after receiving a notice to withhold income that was sent by certified mail pursuant to section 14 of this act, or knowingly misrepresents the income of an employee, the Administrator may apply for and the court may issue an order directing the employer to appear and show cause why he or she should not be subject to the penalties prescribed in subsection 2 of section 17 of this act.

2. At the hearing on the order to show cause, the court, upon a finding that the employer wrongfully refused to withhold income as required or knowingly misrepresented an employee's income:

(a) May order the employer to comply with the requirements of sections 12 to 19, inclusive, of this act;

(b) May order the employer to provide accurate information concerning the employee's income;

(c) May fine the employer pursuant to subsection 2 of section 17 of this act; and

(d) Shall require the employer to pay the amount the employer failed or refused to withhold from the employee's income.

Sec. 19. 1. An employer who complies with a notice to withhold income pursuant to section 12 of this act that is regular on its face may not be held liable in any civil action for any conduct taken in compliance with the notice.

2. Compliance by an employer with a notice to withhold income pursuant to section 12 of this act is a discharge of the employer's liability to the person as to that portion of the income affected.

3. If a court issues an order to stay a withholding of income, the Administrator may not be held liable in any civil action to the person who is the subject of the withholding of income for any money withheld before the stay becomes effective.

Sec. 20. NRS 612.350 is hereby amended to read as follows:

612.350 1. ~~[Each] ~~Except as otherwise provided in section 10 of this act, each~~ An eligible person who is unemployed and otherwise entitled to receive benefits in any week must be paid for that week a benefit in an amount equal to the person's weekly benefit amount, less 75 percent of the remuneration payable to him or her for that week.~~

2. The benefit, if not a multiple of \$1, must be computed to the next lower multiple of \$1.

Sec. 21. NRS 612.365 is hereby amended to read as follows:

612.365 1. Any person who is overpaid any amount as benefits under this chapter is liable for the amount overpaid unless:

(a) The overpayment was not due to fraud, misrepresentation or willful nondisclosure on the part of the recipient; and

(b) The overpayment was received without fault on the part of the recipient, and its recovery would be against equity and good conscience, as determined by the Administrator.

2. The amount of the overpayment must be assessed to the liable person, and the person must be notified of the basis of the assessment. The notice must specify the amount for which the person is liable. In the absence of fraud, misrepresentation or willful nondisclosure, notice of the assessment must be mailed or personally served not later than 1 year after the close of the benefit year in which the overpayment was made.

3. At any time within 5 years after the notice of overpayment, the Administrator may recover the amount of the overpayment by using the same methods of collection provided in NRS 612.625 to 612.645, inclusive, 612.685 and 612.686 for the collection of past due contributions or by deducting the amount of the overpayment from any benefits payable to the liable person under this chapter. *If the overpayment is due to fraud, misrepresentation or willful nondisclosure, the Administrator may recover any amounts due in accordance with the provisions of sections 12 to 19, inclusive, of this act.*

4. The Administrator may waive recovery or adjustment of all or part of the amount of any such overpayment which the Administrator finds to be uncollectible or the recovery or adjustment of which the Administrator finds to be administratively impracticable.

5. To the extent allowed pursuant to federal law, the Administrator may assess any administrative fee prescribed by an applicable agency of the United States regarding the recovery of such overpayments.

6. Any person against whom liability is determined under this section may appeal therefrom within 11 days after the date the notice provided for in this section was mailed to, or served upon, the person. An appeal must be made and conducted in the manner provided in this chapter for the appeals from determinations of benefit status. The 11-day period provided for in this subsection may be extended for good cause shown.

Sec. 22. NRS 612.375 is hereby amended to read as follows:

612.375 1. Except as otherwise provided in subsection 2 of NRS 612.374, ~~and section 10 of this act,~~ an unemployed person is eligible to receive benefits with respect to any week only if the Administrator finds that:

(a) The person has registered for work at, and thereafter has continued to report at, an office of the Division in such a manner as the Administrator

prescribes, except that the Administrator may by regulation waive or alter either or both of the requirements of this paragraph for persons attached to regular jobs and in other types of cases or situations with respect to which the Administrator finds that compliance with those requirements would be oppressive or inconsistent with the purposes of this chapter.

(b) The person has made a claim for benefits in accordance with the provisions of NRS 612.450 and 612.455.

(c) The person is able to work, and is available for work, but no claimant may be considered ineligible with respect to any week of unemployment for failure to comply with the provisions of this paragraph if the failure is because of an illness or disability which occurs during an uninterrupted period of unemployment with respect to which benefits are claimed and no work has been offered the claimant which would have been suitable before the beginning of the illness and disability. No otherwise eligible person may be denied benefits for any week in which the person is engaged in training approved pursuant to 19 U.S.C. § 2296 or by the Administrator by reason of any provisions of this chapter relating to availability for work or failure to apply for, or a refusal to accept, suitable work.

(d) The person has within his or her base period been paid wages from employers:

(1) Equal to or exceeding 1 1/2 times the person's total wages for employment by employers during the quarter of the person's base period in which the person's total wages were highest; or

(2) In each of at least three of the four quarters in the person's base period.

(e) The person has been unemployed and otherwise eligible for benefits for a waiting period of 1 week, within the person's current benefit year, during which no benefits were paid. For the purposes of this paragraph, a person is unemployed in any week during which the amount of any wages earned by the person is less than the person's weekly benefit amount.

~~↪ [If a person fails to qualify for a weekly benefit amount of one twenty fifth of the person's high quarter wages but can qualify for a weekly benefit amount of \$1 less than one twenty fifth of his or her high quarter wages, the person's weekly benefit amount must be \$1 less than one twenty fifth of his or her high quarter wages.]~~ No person may receive benefits in a benefit year unless, after the beginning of the next preceding benefit year during which the person received benefits, he or she performed service, whether or not in "employment" as defined in this chapter and earned remuneration for that service in an amount equal to not less than 3 times his or her basic weekly benefit amount as determined for the next preceding benefit year.

2. In addition to fulfilling the requirements set forth in subsection 1, an unemployed person who has been determined to be likely to exhaust his or her regular benefits and to need services to assist in his or her reemployment, pursuant to the system of profiling established by the Administrator pursuant

to 42 U.S.C. § 503, is eligible to receive benefits with respect to any week only if the person participates in those services to assist in his or her reemployment, unless the Administrator determines that:

(a) The unemployed person has completed his or her participation in those services; or

(b) There is a justifiable cause for the person's failure to participate in those services.

3. For any week in which a claimant receives any pension or other payment for retirement, including a governmental or private pension, annuity or other, similar periodic payment, except as otherwise provided in subsection 4, the amount payable to the claimant under a plan maintained by a base-period employer or an employer whose account is chargeable with benefit payments must:

(a) Not be reduced by the amount of the pension or other payment if the claimant made any contribution to the pension or retirement plan; or

(b) Be reduced by the entire proportionate weekly amount of the pension or other payment if the employer contributed the entire amount to the pension or retirement plan.

4. The amount of the weekly benefit payable to a claimant must not be reduced by the pension offset in subsection 3 if the services performed by the claimant during the base period, or the compensation the claimant received for those services, from that employer did not affect the claimant's eligibility for, or increase the amount of, the pension or other payment, except for a pension paid pursuant to the Social Security Act or Railroad Retirement Act of 1974, or the corresponding provisions of prior law, which is not eligible for the exclusion provided in this subsection and is subject to the offset provisions of subsection 3.

5. As used in this section, "regular benefits" has the meaning ascribed to it in NRS 612.377.

Sec. 23. NRS 612.445 is hereby amended to read as follows:

612.445 1. A person shall not make a false statement or representation, knowing it to be false, or knowingly fail to disclose a material fact in order to obtain or increase any benefit or other payment under this chapter, including, without limitation, by failing to properly report earnings or by filing a claim for benefits using the social security number, name or other personal identifying information of another person. A person who violates the provisions of this subsection commits unemployment insurance fraud.

2. When the Administrator finds that a person has committed unemployment insurance fraud pursuant to subsection 1, the person shall repay to the Administrator for deposit in the Fund a sum equal to all of the benefits received by or paid to the person for each week with respect to which the false statement or representation was made or to which the person failed to disclose a material fact in addition to any interest, penalties and costs related to that sum. *Except as otherwise provided in subsection 3 of NRS 612.480, the Administrator may make an initial determination finding*

that a person has committed unemployment insurance fraud pursuant to subsection 1 at any time within 4 years after the first day of the benefit year in which the person committed the unemployment insurance fraud.

3. Except as otherwise provided in this subsection and subsection 8, the person is disqualified from receiving unemployment compensation benefits under this chapter:

(a) For a period beginning with the ~~first week claimed in violation of~~ week in which the Administrator issues a finding that the person has committed unemployment insurance fraud pursuant to subsection 1 and ending not more than 52 consecutive weeks after the week in which it is determined that a claim was filed in violation of subsection 1; or

(b) Until the sum described in subsection 2, in addition to any interest, penalties or costs related to that sum, is repaid to the Administrator, ~~↪~~ whichever is longer. The Administrator shall fix the period of disqualification according to the circumstances in each case.

4. It is a violation of subsection 1 for a person to file a claim, or to cause or allow a claim to be filed on his or her behalf, if:

(a) The person is incarcerated in the state prison or any county or city jail or detention facility or other correctional facility in this State; and

(b) The claim does not expressly disclose his or her incarceration.

5. A person who obtains benefits of \$650 or more in violation of subsection 1 shall be punished in the same manner as theft pursuant to subsection 3 or 4 of NRS 205.0835.

6. In addition to the repayment of benefits required pursuant to subsection 2, ~~if the amount of benefits which must be repaid is greater than \$1,000,~~ the Administrator ~~may~~:

(a) ~~Shall impose a penalty equal to 15 percent ~~f, or such greater percentage as the Administrator determines is appropriate to enhance the integrity of the system of unemployment compensation established by this chapter,~~ of the total amount of benefits received by the person in violation of subsection 1 ~~f, and~~ Money recovered by the Administrator pursuant to this paragraph must be deposited in the Unemployment Trust Fund in accordance with the provisions of NRS 612.590.~~

(b) May impose a penalty equal to not more than:

~~{(a)}~~ (1) If the amount of such benefits is greater than \$25 but not greater than \$1,000, 5 percent;

(2) If the amount of such benefits is greater than \$1,000 but not greater than \$2,500, ~~{25}~~ 10 percent; or

~~{(b)}~~ (3) If the amount of such benefits is greater than \$2,500, ~~{50}~~ 35 percent,

~~↪~~ of the total amount of benefits received by the person in violation of subsection 1 or any other provision of this chapter. Money recovered by the Administrator pursuant to this paragraph must be deposited in the Employment Security Fund in accordance with the provisions of NRS 612.615.

7. Except as otherwise provided in subsection 8, a person may not pay benefits as required pursuant to subsection 2 by using benefits which would otherwise be due and payable to the person if he or she was not disqualified.

8. The Administrator may waive the period of disqualification prescribed in subsection 3 for good cause shown or if the person adheres to a repayment schedule authorized by the Administrator that is designed to fully repay benefits received from an improper claim, in addition to any related interest, penalties and costs, within 18 months. If the Administrator waives the period of disqualification pursuant to this subsection, the person may repay benefits as required pursuant to subsection 2 by using any benefits which are due and payable to the person, except that benefits which are due and payable to the person may not be used to repay any related interest, penalties and costs.

9. The Administrator may recover any money required to be paid pursuant to this section in accordance with the provisions of NRS 612.365 and may collect interest on any such money in accordance with the provisions of NRS 612.620.

Sec. 23.5. NRS 612.475 is hereby amended to read as follows:

612.475 1. The last employing unit of any unemployed claimant and the next to last employing unit of an unemployed claimant who has not earned remuneration with his or her last covered employer equal to or exceeding his or her weekly benefit amount in each of 16 weeks must be notified of any new claim or additional claim filed by the unemployed claimant following his or her separation.

2. The notice of the filing of a claim must contain the claimant's name and social security number, the reason for separation from the employing unit affected as given by the claimant, the date of separation and such other information as is deemed proper.

3. Upon receipt of a notice of the filing of a claim, the employing unit shall, within 11 days after the date of the mailing of the notice, submit to the Division all *known* relevant facts which may affect the claimant's rights to benefits.

4. Any employing unit that receives a notice of the filing of a claim may protest payment of benefits to the unemployed claimant if the protest is filed within 11 days after the notice is filed.

5. Any employing unit which has filed a protest in accordance with the provisions of this section must be notified in writing of the determination arrived at by the Administrator or the Administrator's Deputy, and the notice must contain a statement setting forth the right of appeal.

6. As used in this section:

(a) "Additional claim" means a claim filed during the benefit year when a break of 1 week or more has occurred in the series of claims with intervening employment.

(b) "New claim" means an application for a determination of eligibility and benefits, benefit amount and duration of benefits which certifies to the

beginning date of a first period of unemployment in a benefit year or the continuance of a period of unemployment into a new benefit year.

Sec. 24. NRS 612.550 is hereby amended to read as follows:

612.550 1. As used in this section:

(a) "Average actual duration" means the number of weeks obtained by dividing the number of weeks of benefits paid for weeks of total unemployment in a consecutive 12-month period by the number of first payments made in the same 12-month period.

(b) "Average annual payroll" for each calendar year means the annual average of total wages paid by an employer subject to contributions for the 3 consecutive calendar years immediately preceding the computation date. The average annual payroll for employers first qualifying as eligible employers must be computed on the total amount of wages paid, subject to contributions, for not less than 10 consecutive quarters and not more than 12 consecutive quarters ending on December 31, immediately preceding the computation date.

(c) "Beneficiary" means a person who has received a first payment.

(d) "Computation date" for each calendar year means June 30 of the preceding calendar year.

(e) "Covered worker" means a person who has worked in employment subject to this chapter.

(f) "First payment" means the first weekly unemployment insurance benefit paid to a person in the person's benefit year.

(g) "Reserve balance" means the excess, if any, of total contributions paid by each employer over total benefit charges to that employer's experience rating record.

(h) "Reserve ratio" means the percentage ratio that the reserve balance bears to the average annual payroll.

(i) "Total contributions paid" means the total amount of contributions, due on wages paid on or before the computation date, paid by an employer not later than the last day of the second month immediately following the computation date.

(j) "Unemployment risk ratio" means the ratio obtained by dividing the number of first payments issued in any consecutive 12-month period by the average monthly number of covered workers in employment as shown on the records of the Division for the same 12-month period.

2. The Administrator shall, as of the computation date for each calendar year, classify employers in accordance with their actual payrolls, contributions and benefit experience, and shall determine for each employer the rate of contribution which applies to that employer for each calendar year in order to reflect his or her experience and classification. The contribution rate of an employer may not be reduced below 2.95 percent, unless there have been 12 consecutive calendar quarters immediately preceding the computation date throughout which the employer has been subject to this chapter and his or her account as an employer could have been charged with

benefit payments, except that an employer who has not been subject to the law for a sufficient period to meet this requirement may qualify for a rate less than 2.95 percent if his or her account has been chargeable throughout a lesser period not less than the 10-consecutive-calendar-quarter period ending on the computation date.

3. Any employer who qualifies under paragraph (b) of subsection 9 and receives the experience record of a predecessor employer must be assigned the contribution rate of the predecessor.

4. Benefits paid to a person up to and including the computation date must be charged against the records, for experience rating, of the person's base-period employers in the same percentage relationship that wages reported by individual employers represent to total wages reported by all base period employers, except that:

(a) If one of the base period employers has paid 75 percent or more of the wages paid to the person during the person's base period, and except as otherwise provided in NRS 612.551, the benefits, less a proportion equal to the proportion of wages paid during the base period by employers who make reimbursement in lieu of contributions, must be charged to the records for experience rating of that employer. The proportion of benefits paid which is equal to the part of the wages of the claimant for the base period paid by an employer who makes reimbursement must be charged to the record of that employer.

(b) No benefits paid to a multistate claimant based upon entitlement to benefits in more than one state may be charged to the experience rating record of any employer when no benefits would have been payable except pursuant to NRS 612.295.

(c) Except for employers who have been given the right to make reimbursement in lieu of contributions, extended benefits paid to a person must not be charged against the accounts of the person's base-period employers.

5. The Administrator shall, as of the computation date for each calendar year, compute the reserve ratio for each eligible employer and shall classify those employers on the basis of their individual reserve ratios. The contribution rate assigned to each eligible employer for the calendar year must be determined by the range within which the employer's reserve ratio falls. The Administrator shall, by regulation, prescribe the contribution rate schedule to apply for each calendar year by designating the ranges of reserve ratios to which must be assigned the various contribution rates provided in subsection 6. The lowest contribution rate must be assigned to the designated range of highest reserve ratios and each succeeding higher contribution rate must be assigned to each succeeding designated range of lower reserve ratios, except that, within the limits possible, the differences between reserve ratio ranges must be uniform.

6. Each employer eligible for a contribution rate based upon experience and classified in accordance with this section must be assigned a contribution

rate by the Administrator for each calendar year according to the following classes:

Class 1	0.25 percent
Class 2	0.55 percent
Class 3	0.85 percent
Class 4	1.15 percent
Class 5	1.45 percent
Class 6	1.75 percent
Class 7	2.05 percent
Class 8	2.35 percent
Class 9	2.65 percent
Class 10	2.95 percent
Class 11	3.25 percent
Class 12	3.55 percent
Class 13	3.85 percent
Class 14	4.15 percent
Class 15	4.45 percent
Class 16	4.75 percent
Class 17	5.05 percent
Class 18	5.40 percent

7. On September 30 of each year, the Administrator shall determine:

(a) The highest of the unemployment risk ratios experienced in the 109 consecutive 12-month periods in the 10 years ending on March 31;

(b) The potential annual number of beneficiaries found by multiplying the highest unemployment risk ratio by the average monthly number of covered workers in employment as shown on the records of the Division for the 12 months ending on March 31;

(c) The potential annual number of weeks of benefits payable found by multiplying the potential number of beneficiaries by the highest average actual duration experienced in the 109 consecutive 12-month periods in the 10 years ending on September 30; and

(d) The potential maximum annual benefits payable found by multiplying the potential annual number of weeks of benefits payable by the average payment made to beneficiaries for weeks of total unemployment in the 12 months ending on September 30.

8. The Administrator shall issue an individual statement, itemizing benefits charged during the 12-month period ending on the computation date, total benefit charges, total contributions paid, reserve balance and the rate of contributions to apply for that calendar year, for each employer whose account is in active status on the records of the Division on January 1 of each year and whose account is chargeable with benefit payments on the computation date of that year.

9. If an employer transfers its trade or business, or a portion thereof, to another employer:

(a) And there is substantially common ownership, management or control of the employers, the experience record attributable to the transferred trade or business must be transferred to the employer to whom the trade or business is transferred. The rates of both employers must be recalculated, and the recalculated rates become effective on the date of the transfer of the trade or business. If the Administrator determines, following the transfer of the experience record pursuant to this paragraph, that the sole or primary purpose of the transfer of the trade or business was to obtain a reduced liability for contributions, the Administrator shall combine the experience rating records of the employers involved into a single account and assign a single rate to the account.

(b) And there is no substantially common ownership, management or control of the employers, the experience record of an employer may be transferred to a successor employer as of the effective date of the change of ownership if:

(1) The successor employer acquires the entire or a severable and distinct portion of the business, or substantially all of the assets, of the employer;

(2) The successor employer notifies the Division of the acquisition in writing within 90 days after the date of the acquisition;

(3) The employer and successor employer submit a joint application to the Administrator requesting the transfer; and

(4) The joint application is approved by the Administrator.

↪ The joint application must be submitted within 1 year after the date of issuance by the Division of official notice of eligibility to transfer.

(c) Except as otherwise provided in paragraph (a), a transfer of the experience record must not be completed if the Administrator determines that the acquisition was effected solely or primarily to obtain a more favorable contribution rate.

(d) Any liability to the Division for unpaid contributions, interest or forfeit attributable to the transferred trade or business must be transferred to the successor employer. The percentage of liability transferred must be the same as the percentage of the experience record transferred.

10. Whenever an employer has paid no wages in employment for 8 consecutive calendar quarters following the last calendar quarter in which the employer paid wages for employment, the Administrator shall terminate the employer's experience rating account, and the account must not thereafter be used in any rate computation.

11. The Administrator may adopt reasonable accounting methods to account for those employers which are in a category for providing reimbursement in lieu of contributions.

Sec. 25. NRS 612.551 is hereby amended to read as follows:

612.551 1. Except as otherwise provided in subsections 2 , 3 and ~~3,~~ 7, if the Division determines that a claimant has earned 75 percent or more of his or her wages during his or her base period from one employer, it shall

notify the employer of its determination and advise him or her that he or she has a right to protest the charging of benefits to his or her account pursuant to subsection 4 of NRS 612.550.

2. Benefits paid pursuant to an elected base period in accordance with NRS 612.344 must not be charged against the record for experience rating of the employer.

3. ~~[[H]]~~ *Except as otherwise provided in subsection 7, if a claimant leaves his or her last or next to last employer to take other employment and leaves or is discharged by the latter employer, benefits paid to the claimant must not be charged against the record for experience rating of the former employer.*

4. If the employer provides evidence within 10 working days after the notice required by subsection 1 was mailed which satisfies the Administrator that the claimant:

(a) Left his or her employment voluntarily without good cause or was discharged for misconduct connected with the employment; or

(b) Was the spouse of an active member of the Armed Forces of the United States and left his or her employment because the spouse was transferred to a different location,

→ the Administrator shall order that the benefits not be charged against the record for experience rating of the employer.

5. The employer may appeal from the ruling of the Administrator relating to the cause of the termination of the employment of the claimant in the same manner as appeals may be taken from determinations relating to claims for benefits.

6. A determination made pursuant to this section does not constitute a basis for disqualifying a claimant to receive benefits.

7. *If an employer who is given notice of a claim for benefits pursuant to subsection 1 fails to submit timely to the Division all known relevant facts which may affect the claimant's rights to benefits as required by NRS 612.475, ~~for has established a pattern of failing to submit timely such facts,~~ the employer's record for experience rating is not entitled to be relieved of the amount of any benefits paid to the claimant as a result of such failure that were charged against the employer's record pursuant to NRS 612.550 or 612.553.*

Sec. 26. NRS 612.615 is hereby amended to read as follows:

612.615 1. There is hereby created the Employment Security Fund as a special revenue fund.

2. ~~[[H]]~~ *Except as otherwise provided in paragraph (a) of subsection 6 of NRS 612.445, all interest and forfeits collected under NRS 612.618 to 612.675, inclusive, and 612.740 and sections 12 to 19, inclusive, of this act must be paid into the Fund.*

3. All money which is deposited or paid into the Fund is hereby appropriated and made available to the Administrator or for any other purpose authorized by the Legislature. The money may not be expended or made available for expenditure in any manner which would permit its

substitution for, or a corresponding reduction in, federal payments which would, in the absence of this money, be available to finance expenditures for the administration of the employment security laws of the State of Nevada.

4. This section does not prevent this money from being used as a revolving fund to cover expenditures, necessary and proper under the law, for which federal payments have been duly requested but not yet received, subject to the repayment to the Fund of such expenditures when received.

5. ~~The~~ *Except as otherwise provided in this section,* money in this Fund available to the Administrator must be used by the Administrator for the payment of costs of:

(a) Administration which are found not to have been properly and validly chargeable against federal grants received for or in the Unemployment Compensation Administration Fund; or

(b) Any program or the implementation of procedures deemed necessary by the Administrator to ensure the proper payment of benefits and collection of contributions and reimbursements pursuant to this chapter or for any other purpose authorized by the Legislature.

6. *The Administrator may use money deposited in this Fund from a penalty imposed pursuant to paragraph (b) of subsection 6 of NRS 612.445 for any purpose that furthers the integrity of the system of unemployment compensation established pursuant to this chapter.*

7. Any balances in this Fund do not lapse at any time, but are continuously available to the Administrator for expenditure consistent with this chapter.

~~7.~~ 8. Money in this Fund must not be commingled with other state money, but must be maintained in a separate account on the books of the depository.

Sec. 27. NRS 612.655 is hereby amended to read as follows:

612.655 1. Where a payment of contributions, forfeit or interest has been erroneously collected, an employer may, not later than 3 years after the date on which such payments became due, make application for an adjustment thereof in connection with subsequent contributions, forfeit or interest payments or for a refund. All such adjustments or refunds will be made without interest. An adjustment or refund will not be made in any case with respect to contributions on wages which have been included in the determination of an eligible claim for benefits, unless it is shown to the satisfaction of the Administrator that such determination was due entirely to the fault or mistake of the Division.

2. Refunds of interest and forfeit collected under NRS 612.618 to 612.675, inclusive, and 612.740 *and sections 12 to 19, inclusive, of this act* and paid into the Employment Security Fund established by NRS 612.615 must be made only from the Employment Security Fund.

Sec. 28. NRS 612.695 is hereby amended to read as follows:

612.695 1. Any employer who, outside the usual course of the employer's business, sells *or transfers* substantially all or any one of the

classes of assets enumerated in subsection 1 of NRS 612.690 and quits business, shall within 10 days after the sale *or transfer* file such reports as the Administrator may prescribe and pay the contributions, interest or forfeits required by this chapter with respect to wages for employment to the date of the sale ~~[-]~~ *or transfer*.

2. *In the case of a sale:*

(a) The purchaser shall withhold sufficient of the purchase money to cover the amount of all contributions, *interest* and forfeits due and unpaid until such time as the seller produces a receipt from the Administrator showing that the contributions, *interest* and forfeits have been paid or a certificate showing that no contributions, *interest* or forfeits are due.

~~[3.]~~ (b) If the seller fails, within the 10-day period, to produce the receipt or certificate, the purchaser shall pay the sum so withheld to the Administrator upon demand.

~~[4.]~~ (c) If the purchaser fails to withhold purchase money as provided in ~~[subsection 2]~~ *paragraph (a)* and the contributions, interest and forfeits are not paid within the 10 days specified in this section, the purchaser is personally liable for the payment of the contributions, *interest* and forfeits accrued and unpaid on account of the operation of the business by the former owner.

3. *In the case of a transfer other than a sale, if the contributions, interest and forfeits are not paid within the 10 days specified in this section, the transferee is personally liable for the payment of the contributions, interest and forfeits accrued and unpaid on account of the operation of the business by the former owner.*

Sec. 29. ~~[Chapter 363B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The wages paid by an employer during a quarter to affected workers by a plan of work sharing approved by the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation pursuant to section 7 of this act are exempt from any portion of the tax imposed pursuant to NRS 363B.110 which exceeds 0.63 percent of the amount of such wages.~~

~~2. The Commission shall adopt regulations to carry out the provisions of this section.~~

~~3. As used in this section, "affected worker" has the meaning ascribed to it in section 3 of this act.~~ (Deleted by amendment.)

Sec. 30. The provisions of NRS 612.551, as amended by section 25 of this act, do not apply to a claim for benefits paid before October 21, 2013.

Sec. 31. ~~[Section 29 of this act:~~

~~1. Does not apply to any taxes due pursuant to NRS 363B.110 for any period ending on or before the effective date of section 29 of this act; and~~

~~2. Except as otherwise provided in subsection 1 and notwithstanding the expiration of that section by limitation pursuant to section 32 of this act, applies to any taxes due pursuant to NRS 363B.110 for each calendar quarter~~

~~ending on or before the expiration of section 29 of this act.] (Deleted by amendment.)~~

Sec. 32. 1. This section and sections 1, 12 to 19, inclusive, 21 to 28, inclusive, and 30 of this act become effective upon passage and approval.

2. Sections 2 to 11, inclusive, and 20 of this act become effective:

(a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) For all other purposes, on the first day of the quarter after the date on which the Secretary of Labor approves the program of shared work unemployment compensation established pursuant to section 5 of this act as a short-time compensation program.

3. Sections 29 and 31 of this act become effective:

(a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) For all other purposes, if and only if the amendatory provisions of section 4 of chapter 476, Statutes of Nevada 2011, at page 2891, or substantially similar provisions, are in effect on the first day of the quarter after the date on which the Secretary of Labor approves the program of shared work unemployment compensation established pursuant to section 5 of this act as a short-time compensation program.

4. Section 29 of this act expires by limitation on the date on which the amendatory provisions of section 4 of chapter 476, Statutes of Nevada 2011, at page 2891, or substantially similar provisions, expire.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

Thank you, Mr. President. Amendment No. 45 to Senate Bill No. 36 makes various changes concerning unemployment compensation.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 41.

Bill read second time.

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

Amendment No. 44.

"SUMMARY—Revises certain provisions governing the regulation of certain providers of telecommunication services by the Public Utilities Commission of Nevada. (BDR 58-324)"

"AN ACT relating to public utilities; revising certain provisions governing proposed changes in schedules submitted by small-scale providers of last resort; revising certain provisions relating to the approval by the Public Utilities Commission of Nevada of proposed transactions involving certain public utilities providing telecommunication services in this State;

authorizing the Commission to regulate broadband services in this State under certain circumstances; revising provisions relating to the eligibility of persons with low incomes for reductions in rates for certain telephone services; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law generally requires a public utility to submit an application and obtain the approval of the Public Utilities Commission of Nevada for a change in any schedule of rates or services. (NRS 704.110) Generally, an application for a proposed change is subject to a hearing. However, existing law provides that the Commission will determine whether to dispense with a hearing regarding a change in a schedule proposed by a small-scale provider of last resort of telephone service under certain circumstances. (NRS 704.100) Section 1 of this bill provides that a small-scale provider of last resort may file with the Commission the proposed change using a letter of advice in lieu of an application if the applicant: (1) demonstrates that the proposed change in schedule is required by or directly related to a regulation or order of the Federal Communications Commission; and (2) files the letter of advice not later than 5 years after the Commission has issued a final order on a general rate application filed by the applicant. Section 1 authorizes a small-scale provider of last resort to request a waiver of the 5-year period. Section 1 additionally authorizes the Regulatory Operations Staff of the Commission or any other interested party to file with the Commission a request for the issuance of an order requiring the applicant to file a general rate application and provides that the Commission may hold a hearing to consider such a request.

Existing law requires that, with certain exceptions, a person who seeks to merge with, directly or indirectly acquire or directly or indirectly obtain control of a public utility doing business in this State obtain from the Commission authorization of the proposed transaction. ~~[(A)] (NRS 704.329)~~ Section 2 of this bill exempts a provider of commercial mobile radio service from this requirement. Existing law further provides that a proposed transaction involving a public utility providing telecommunication services is exempted from this requirement if, in the most recently completed calendar year, not more than 10 percent of the gross operating revenue of the public utility was derived from intrastate telecommunication services provided to retail customers in this State. ~~[(NRS 704.329)]~~ Section 2 ~~[of this bill]~~ provides that a person who proposes such a transaction must ~~[, not later than 1 business day after filing certain notifications required by federal law,]~~ provide to the Commission written notice of the proposed transaction, which must include ~~[sufficient]~~ certain information ~~[for the Commission to determine whether]~~ concerning the proposed transaction. Section 2 authorizes the person proposing the transaction to request that the Regulatory Operations Staff of the Commission and the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General each waive the right to request an order from the Commission

requiring the person to file an application for authorization of the proposed transaction. If such waivers are made, section 2 provides that the person proposing the transaction is exempted from the requirement that the person ~~proposing the transaction~~ obtain the authorization of the Commission.

Existing law prohibits the Commission, with certain limited exceptions, from regulating any broadband services. (NRS 704.684) Section 3 of this bill provides that the Commission is not prohibited from exercising its authority in accordance with certain federal statutes ~~including taking any action~~ to implement the federal universal service program and taking any action within the scope of that authority because of a regulation or order of the Federal Communications Commission.

Section 4 of this bill revises certain requirements concerning regulations which the Commission is required to adopt governing eligibility for persons with low incomes for a reduction in rates for telephone service.

Section 9 of this bill expands the applicability of the reduction in telephone rates provided by lifeline or tribal link up services to include certain services included in bundled service offerings which an eligible provider is required to offer pursuant to federal regulations. Sections 5-8 and 10 of this bill make various additional changes concerning lifeline and tribal link up services provided by such providers.

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

Section 1. NRS 704.100 is hereby amended to read as follows:

704.100 1. Except as otherwise provided in NRS 704.075 and 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097:

(a) A public utility shall not make changes in any schedule, unless the public utility:

(1) Files with the Commission an application to make the proposed changes and the Commission approves the proposed changes pursuant to NRS 704.110; or

(2) Files the proposed changes with the Commission using a letter of advice in accordance with the provisions of paragraph (f) ~~or~~ *or (g)*.

(b) A public utility shall adjust its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8 of NRS 704.110 based on changes in the public utility's recorded costs of natural gas purchased for resale.

(c) An electric utility shall, between annual deferred energy accounting adjustment applications filed pursuant to NRS 704.187, adjust its rates on a quarterly basis pursuant to subsection 10 of NRS 704.110.

(d) A public utility shall post copies of all proposed schedules and all new or amended schedules in the same offices and in substantially the same form, manner and places as required by NRS 704.070 for the posting of copies of schedules that are currently in force.

(e) A public utility may not set forth as justification for a rate increase any items of expense or rate base that previously have been considered and disallowed by the Commission, unless those items are clearly identified in the application and new facts or considerations of policy for each item are advanced in the application to justify a reversal of the prior decision of the Commission.

(f) Except as otherwise provided in paragraph (g), if the proposed change in any schedule does not change any rate or will result in an increase in annual gross operating revenue, as certified by the public utility, in an amount that does not exceed \$2,500:

(1) The public utility may file the proposed change with the Commission using a letter of advice in lieu of filing an application; and

(2) The Commission shall determine whether it should dispense with a hearing regarding the proposed change.

(g) If the applicant is a small-scale provider of last resort and the proposed change in any schedule will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that does not exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less ~~[, the]~~ :

(1) The applicant may file the proposed change with the Commission using a letter of advice in lieu of filing an application if the applicant:

(I) Demonstrates that the proposed change in schedule is required by or directly related to a regulation or order of the Federal Communications Commission; and

(II) ~~[Files]~~ Except as otherwise provided in subsection 2, files the letter of advice not later than 5 years after the Commission has issued a final order on a general rate application filed by the applicant in accordance with subsection 3 of NRS 704.110; and

(2) The Commission shall determine whether it should dispense with a hearing regarding the proposed change.

➔ Not later than 10 business days after the filing of a letter of advice pursuant to subparagraph (1), the Regulatory Operations Staff of the Commission or any other interested party may file with the Commission a request that the Commission order an applicant to file a general rate application in accordance with subsection 3 of NRS 704.110. The Commission may hold a hearing to consider such a request.

(h) In making the determination pursuant to paragraph (f) or (g), the Commission shall first consider all timely written protests, any presentation that the Regulatory Operations Staff of the Commission may desire to present, the application of the public utility and any other matters deemed relevant by the Commission.

2. An applicant that is a small-scale provider of last resort may submit to the Commission a written request for a waiver of the 5-year period specified in sub-subparagraph (II) of subparagraph (1) of paragraph (g) of subsection 1. The Commission shall, not later than 90 days after receipt of

such a request, issue an order approving or denying the request. The Commission may approve the request if the applicant provides proof satisfactory to the Commission that the applicant is not earning more than the rate of return authorized by the Commission and that it is in the public interest for the Commission to grant the request for a waiver. The Commission shall not approve a request for a waiver if the request is submitted later than 7 years after the issuance by the Commission of a final order on a general rate application filed by the applicant in accordance with subsection 3 of NRS 704.110. If the Commission approves a request for a waiver submitted pursuant to this subsection, the applicant shall file the letter of advice pursuant to subparagraph (1) of paragraph (g) of subsection 1 not earlier than 120 days after the date on which the applicant submitted the request for a waiver pursuant to this subsection, unless the order issued by the Commission approving the request for a waiver specifies a different period for the filing of the letter of advice.

3. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 2. NRS 704.329 is hereby amended to read as follows:

704.329 1. Except as otherwise provided in subsection 6, a person shall not merge with, directly acquire, indirectly acquire through a subsidiary or affiliate, or otherwise directly or indirectly obtain control of a public utility doing business in this State or an entity that holds a controlling interest in such a public utility without first submitting to the Commission an application for authorization of the proposed transaction and obtaining authorization from the Commission.

2. Any transaction that violates the provisions of this section is void and unenforceable and is not valid for any purpose.

3. Before authorizing a proposed transaction pursuant to this section, the Commission shall consider the effect of the proposed transaction on the public interest and the customs in this State. The Commission shall not authorize the proposed transaction unless the Commission finds that the proposed transaction:

- (a) Will be in the public interest; and
- (b) Complies with the provisions of NRS 704.7561 to 704.7595, inclusive, if the proposed transaction is subject to those provisions.

4. The Commission may base its authorization of the proposed transaction upon such terms, conditions or modifications as the Commission deems appropriate.

5. If the Commission does not issue a final order regarding the proposed transaction within 180 days after the date on which an application or amended application for authorization of the proposed transaction was filed with the Commission, and the proposed transaction is not subject to the provisions of NRS 704.7561 to 704.7595, inclusive, the proposed transaction shall be deemed to be authorized by the Commission.

6. The provisions of this section do not apply to:

(a) The transfer of stock of a public utility doing business in this State or to the transfer of the stock of an entity that holds a controlling interest in such a public utility, if a transfer of not more than 25 percent of the common stock of such a public utility or entity is proposed.

(b) Except as otherwise provided in this paragraph, a proposed transaction involving a public utility doing business in this State providing telecommunication services or an entity that holds a controlling interest in such a public utility if, in the most recently completed calendar year, not more than 10 percent of the gross operating revenue of the public utility or the entity that holds a controlling interest in the public utility was derived from intrastate telecommunication services provided to retail customers in this State by the public utility. *A person who proposes such a transaction shall ~~file~~, not later than 1 business day after filing the notification required by ~~15 U.S.C. § 18a, provide to~~ file with the Commission written notice of the proposed transaction. The notice must identify each party to the proposed transaction and include ~~sufficient information for the Commission to determine whether~~ a verified statement that not more than 10 percent of the gross operating revenue of the public utility or the entity that holds a controlling interest in the public utility was derived from intrastate telecommunication services provided to retail customers in this State by the public utility in the most recently completed calendar year. Upon filing the notice required by this paragraph, the person may submit a written request that the Regulatory Operations Staff of the Commission and the Consumer's Advocate waive the right pursuant to subparagraph (1) to request an order from the Commission requiring the person to file an application for authorization of the proposed transaction. If the Regulatory Operations Staff and the Consumer's Advocate waive in writing the right to request an order from the Commission requiring the person to file an application, the proposed transaction is exempted from the provisions of this section. Such a proposed transaction is not exempted from the provisions of this section if:*

(1) Not later than 30 days after the date on which the person undertaking the proposed transaction ~~submits~~ files the ~~notification~~ notice required by ~~15 U.S.C. § 18a,~~ this paragraph, the Regulatory Operations Staff of the Commission or the Consumer's Advocate requests an order from the Commission requiring the person to file an application for authorization of the proposed transaction ~~file~~, and has not waived its right to request such an order;

(2) The request alleges in sufficient detail that the proposed transaction may materially affect retail customers of public utilities in this State; and

(3) The Commission issues an order requiring the person to file an application for authorization of the proposed transaction.

(c) A public utility engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this State if the utility:

(1) Serves 15 persons or less; and

(2) Operates in a county whose population is 700,000 or more.

(d) A provider of commercial mobile radio service.

7. As used in this section:

(a) "Person" means:

(1) A natural person;

(2) Any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or unincorporated organization;

(3) A government or an agency or instrumentality of a government, including, without limitation, this State or an agency or instrumentality of this State; and

(4) A political subdivision of this State or of any other government or an agency or instrumentality of a political subdivision of this State or of any other government.

(b) "Transaction" means a merger, acquisition or change in control described in subsection 1.

Sec. 3. NRS 704.684 is hereby amended to read as follows:

704.684 1. Except as otherwise provided in this section, the Commission shall not regulate any broadband service, including imposing any requirements relating to the terms, conditions, rates or availability of broadband service.

2. The provisions of subsection 1 do not limit or modify the authority of the Commission to:

(a) Consider any revenues, costs and expenses that a small-scale provider of last resort derives from providing a broadband service, if the Commission is determining the rates of the provider under a general rate application that is filed pursuant to subsection 3 of NRS 704.110;

(b) Act on a complaint filed pursuant to NRS 703.310, if the complaint relates to a broadband service that is provided by a public utility;

(c) Include any appropriate gross operating revenue that a public utility derives from providing broadband service when the Commission calculates the gross operating revenue of the public utility for the purposes of levying and collecting the annual assessment in accordance with the provisions of NRS 704.033; or

(d) Determine the rates, pricing, terms and conditions of intrastate switched or special access services provided by a telecommunication provider.

3. The provisions of subsection 1 do not:

(a) Apply to the Commission in connection with any actions or decisions required or permitted by the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56-161; ~~or~~

(b) *Prevent the Commission from exercising its authority pursuant to 47 U.S.C. § 214(e) or ~~47 U.S.C. § 254(f)~~ relating to the implementation of the federal universal service program, including, without limitation, taking*

any action within the scope of that authority because of a regulation or order of the Federal Communications Commission; or

(c) Limit or modify:

(1) The duties of a telecommunication provider regarding the provision of network interconnection, unbundled network elements and resold services under the provisions of the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56-161; or

(2) The authority of the Commission to act pursuant to NRS 704.6881 and 704.6882.

4. As used in this section, "broadband service" means any two-way service that transmits information at a rate that is generally not less than 200 kilobits per second in at least one direction.

Sec. 4. NRS 704.6873 is hereby amended to read as follows:

704.6873 1. The Commission shall adopt regulations that require each telecommunication provider furnishing service to:

(a) An elementary or secondary public school; or

(b) A public library,

↪ to establish discounts in the rates for the telecommunication services that the provider furnishes to that school or library. The amount of the discount must be determined by the Commission in a manner that is consistent with the provisions of 47 U.S.C. § 254.

2. The Commission shall adopt regulations that require each telecommunication provider furnishing service to:

(a) Public or private nonprofit providers of health care which serve persons in rural areas; or

(b) Persons with low income and persons in rural, insular and high-cost areas,

↪ to ensure that such providers of health care and persons have access to telecommunication services that are reasonably comparable to those services available in urban areas and that the rates for such services charged by the telecommunication provider are reasonably comparable to those charged in the urban areas, to the extent required by the provisions of 47 U.S.C. § 254.

3. The Commission shall adopt regulations which set forth the requirements for eligibility for:

(a) Persons with low income to receive a reduction in rates for telephone service pursuant to NRS 707.400 to 707.500, inclusive. The regulations adopted pursuant to this paragraph must provide that ~~if a person is a customer of:~~

~~(1) A competitive supplier that is an incumbent local exchange carrier, the person is eligible to receive a reduction in rates if the person's household has a total household gross income not exceeding 175 percent of the federally established poverty level for a household with the same number of persons; and~~

~~(2) Any other competitive supplier or a small scale provider of last resort, the person is eligible to receive a reduction in rates if the person's~~

~~household has a total household gross income not exceeding 150 percent of the federally established poverty level for a household with the same number of persons.] :~~

(1) An eligible provider shall provide a reduction in rates for telephone service if the income of a person's household is at or below the greater of:

(I) The percentage of the federally designated level signifying poverty for a household of that size specified by 47 C.F.R. § 54.409, as that section existed on June 28, 2012; or

(II) The percentage of the federally designated level signifying poverty for a household of that size specified by the Commission; and

(2) The percentage of the federally designated level signifying poverty specified pursuant to subparagraph (1) is applicable to all eligible providers.

(b) Small-scale providers of last resort to apply to receive payments from the fund to maintain the availability of telephone service with regard to rural, insular and high-cost areas.

(c) Competitive suppliers that are providers of last resort to apply to receive payments from the fund to maintain the availability of telephone service with regard to rural, insular and high-cost areas.

4. Any regulations adopted pursuant to this section and NRS 704.040 regarding the availability of telephone service must:

(a) Be consistent with the applicable provisions of 47 U.S.C. [§] §§ 214 and 254;

(b) Define rural, insular and high-cost areas;

(c) Establish nondiscriminatory eligibility requirements for all small-scale providers of last resort that apply to receive payments from the fund to maintain the availability of telephone service with regard to rural, insular and high-cost areas; and

(d) Allow competitive suppliers which are providers of last resort and which meet the eligibility requirements established by the Commission to apply to receive payments from the fund to maintain the availability of telephone service with regard to rural, insular and high-cost areas.

5. *As used in this section:*

(a) "Eligible provider" has the meaning ascribed to it in NRS 707.440.

(b) "Household" has the meaning ascribed to it in 47 C.F.R. § 54.400(h), as that section existed on April 2, 2012.

(c) "Income" has the meaning ascribed to it in 47 C.F.R. § 54.400(f), as that section existed on April 2, 2012.

Sec. 5. NRS 704.68867 is hereby amended to read as follows:

704.68867 1. Each competitive supplier that is an incumbent local exchange carrier on May 31, 2007, shall:

(a) On or before October 1, 2008, prepare and submit to the Commission and the Bureau of Consumer Protection in the Office of the Attorney General a report regarding competition in the local markets for telecommunication service, including, without limitation, competition from available alternative services that serve as technological substitutes for telecommunication

service. The report must be based on information that is reasonably available from public sources and must contain data, statistical measures and analyses for assessing:

(1) The existing number of customers of the competitive supplier, the forms of telecommunication service provided by the competitive supplier and the prices for such services;

(2) The number of competitors in the local markets within the service territory of the competitive supplier for various forms of telecommunication service, including, without limitation, wireline and wireless telecommunication service, and any available alternative services that serve as technological substitutes for telecommunication service, such as broadband services, and a comparison of the services provided by such competitors and prices for telecommunication service and broadband service;

(3) The growth or decline, if any, in customers and primary access lines of the competitive supplier during the preceding 5 years; and

(4) The number of persons receiving a reduction in rates for telephone service pursuant to NRS 707.400 to 707.500, inclusive, within the service territory of the competitive supplier, the price of such service, the consumer outreach and informational programs used to expand participation of eligible persons in such service, and the management, coordination and training programs implemented by the competitive supplier to increase awareness and use of lifeline and ~~link-up~~ *tribal link up* programs.

(b) On or before October 1 of each year thereafter for a period of 4 years, prepare and submit to the Commission and the Bureau of Consumer Protection in the Office of the Attorney General a report that compares and evaluates any changes in the data, prices, statistical measures and analyses set forth in the report submitted by the competitive supplier pursuant to paragraph (a).

2. The Commission shall:

(a) On or before December 1 of each applicable year, provide to the Legislative Commission a copy of the reports received pursuant to subsection 1; and

(b) On or before December 1, 2010, prepare and submit to the Legislative Commission and the Bureau of Consumer Protection in the Office of the Attorney General a report that:

(1) Summarizes and evaluates the data, prices, statistical measures and analyses set forth in the reports submitted by competitive suppliers pursuant to subsection 1;

(2) Provides an assessment of market conditions and the state of competition for telecommunication service in the various geographical areas of this State; and

(3) Includes, without limitation:

(I) A discussion of the types of alternative services that serve as technological substitutes for telecommunication service and the availability

of such alternative services in the various geographical areas of this State; and

(II) An assessment of the alternative services that are available for basic network service and business line service considering intermodal alternatives, technological developments, market conditions and the availability of comparable alternative services in the various geographical areas of this State.

3. *As used in this section:*

(a) "Lifeline" has the meaning ascribed to it in NRS 707.450.

(b) "Tribal link up" has the meaning ascribed to it in NRS 707.460.

Sec. 6. NRS 707.430 is hereby amended to read as follows:

707.430 "Eligible customer" means a customer who is eligible to receive lifeline or *tribal* link up services.

Sec. 7. NRS 707.450 is hereby amended to read as follows:

707.450 "Lifeline" has the meaning ascribed to it in 47 C.F.R. § 54.401(a), as that section existed on ~~January 1, 1999.~~ April 2, 2012.

Sec. 8. NRS 707.460 is hereby amended to read as follows:

707.460 ~~["Link]~~ "Tribal link up" has the meaning ascribed to it in 47 C.F.R. § ~~[54.411(a),]~~ 54.413, as that section existed on ~~January 1, 1999.~~ April 1, 2012.

Sec. 9. NRS 707.490 is hereby amended to read as follows:

707.490 1. The reduction in the telephone rates provided by lifeline or *tribal* link up services must be based on the methods for determining reductions which are adopted by the Commission by regulation. The Commission may provide different methods for determining reductions to allow for differences between eligible providers. The methods may include, without limitation:

(a) Basing the reduction on the tariff filed by the eligible provider with the Commission; or

(b) Establishing a formula pursuant to which the amount of the reduction may be determined.

2. The reduction in such telephone rates applies only to:

(a) Basic network service ~~[-and]~~ or the voice telephony service included in any bundled service offering that includes voice telephony service and any other services specified in 47 C.F.R. § 54.401(b), as that section existed on April 2, 2012.

(b) Residential service connection charges for such ~~[basic network]~~ service.

3. If the amount of the reduction in rates provided by an eligible provider to an eligible customer for lifeline services is greater than the amount which the eligible provider receives as universal service support pursuant to 47 U.S.C. § 254, the eligible provider is entitled to reimbursement from the fund to maintain the availability of telephone service established by the Commission pursuant to NRS 704.040 for the difference between the amount

of the reduction and the amount received as universal service support pursuant to 47 U.S.C. § 254.

Sec. 10. NRS 707.480 is hereby repealed.

Sec. 11. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

707.480 Eligible provider to notify eligible customers regarding default receipt of lifeline and link up services; contents of notification; declination of services; billing for services; duration of lifeline services.

1. An eligible provider, within 7 days after determining that a person located in its service area is an eligible customer, shall notify the eligible customer that the eligible customer will receive lifeline or link up services, or both, unless the eligible customer specifically declines to receive the services. The notification must include:

(a) Information about the lifeline and link up services, including, without limitation, the date on which the services will begin and any options or responsibilities that the eligible customer may have related to the receipt of those services;

(b) A self-addressed, postage paid response card which the eligible customer must return to the eligible provider to decline the services; and

(c) A statement that the eligible provider will automatically provide lifeline or link up services, or both, to the eligible customer unless the eligible customer declines the services by timely returning to the eligible provider the response card included with the notification.

2. To decline lifeline or link up services, an eligible customer must return the response card included in the notification provided pursuant to subsection 1 to the eligible provider not later than 10 days before the date on which the services are scheduled to begin.

3. An eligible provider shall begin billing an eligible customer for lifeline or link up services, or both, not later than 60 days after the date on which the eligible provider receives the list of eligible customers from the Department which includes the eligible customer, if the eligible customer has not declined the services.

4. An eligible provider shall continue providing lifeline services to an eligible customer for as long as the eligible customer continues to receive telecommunication services from the eligible provider until the customer or the Department notifies the eligible provider that the customer is no longer eligible for the program. The eligible provider shall discontinue providing lifeline services to an eligible customer if the eligible customer notifies the eligible provider in writing that the eligible customer wishes to discontinue receiving those services.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Thank you, Mr. President. Amendment No. 44 to Senate Bill No. 41 authorizes a small scale provider of last resort to request a waiver of the 5-year limitation period at least 120 days prior to when it makes a letter of filing. It also authorizes a person proposing transaction to request that

the Regulatory Operations Staff of the Public Utilities Commission of Nevada and the Consumer's Advocate of the Bureau of Consumer Protection each provide a waiver to the request.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 261.

Bill read second time.

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

Amendment No. 213.

"SUMMARY—Revises provisions relating to door-to-door solicitation. (BDR 52-829)"

"AN ACT relating to the regulation of trades; requiring certain persons who engage in door-to-door commercial solicitation to obtain a permit from the Consumer Affairs Division of the Department of Business and Industry; providing for the issuance of identification badges to persons who engage in such solicitation; prohibiting commercial ~~for noncommercial~~ solicitation under certain circumstances; ~~requiring the Division to establish a list of residential addresses at which commercial solicitation is prohibited;~~ authorizing disciplinary action against the holder of a permit or identification badge; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law imposes certain requirements relating to door-to-door solicitations. For example, a person engaged in the business or occupation of making such solicitations is required to identify himself or herself and the purpose of his or her visit within 30 seconds after beginning the conversation. (NRS 598.092) In addition, a purchaser of certain goods and services sold door-to-door generally has a statutory right to cancel the transaction within 3 business days, and a seller is required to provide the buyer with a form for giving notice of the cancellation. (NRS 598.230, 598.250)

This bill adopts additional provisions for the regulation of door-to-door solicitors. Section 9 of this bill requires a person who engages in the business of door-to-door solicitation for commercial purposes to apply for and obtain a permit from the Consumer Affairs Division of the Department of Business and Industry. Section 9 further requires each person who is the agent or employee of a permit holder and engages in solicitation pursuant to that permit (a "permitted solicitor") to obtain an identification badge from the Division. Section 10 of this bill provides that certain persons are not eligible for a permit or identification badge, and section 11 of this bill establishes the process by which a permit and identification badge are issued. Section 12 of this bill requires the Division to deny an application for a permit or for the renewal of a permit if the applicant or permit holder is not eligible for the

permit or makes any material misrepresentation in the application. Section 13 of this bill establishes the process for renewing a permit. Section 16 of this bill requires the Division to maintain a record of each permit and identification badge it issues, together with a record of any violations committed by the permit holder or permitted solicitor.

Sections 17-19 of this bill directly regulate the conduct of door-to-door solicitation. Section 17 requires a permitted solicitor to display his or her identification badge and to exhibit the badge and the permit on request by any customer, prospective customer or law enforcement officer. Section 18 regulates the hours during which commercial ~~for noncommercial~~ solicitation may be conducted. Section 19 makes it unlawful to engage in solicitation wherever a "no solicitation" or "no trespassing" sign is ~~posted~~.

~~Section 20 of this bill requires the Division to establish and maintain a no-solicitation list, whereby a person who wishes to prohibit door-to-door commercial solicitation at his or her residence may register the address of the residence with the Division.] prominently displayed in public view at certain locations.~~

Section 21 of this bill authorizes the Division to take disciplinary action against a permit holder or permitted solicitor on specified grounds, and section 22 of this bill provides for judicial review of any such action. Section 23 of this bill authorizes the Division to adopt regulations necessary to carry out the other provisions of this bill. Unless a greater penalty is prescribed by specific statute, section 24 of this bill provides that any violation of those provisions is a misdemeanor.

Sections 1 and 28-46 of this bill make conforming changes to various existing provisions of NRS governing trade practices and solicitation by telephone.

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

Section 1. NRS 598.135 is hereby amended to read as follows:

598.135 The provisions of NRS 598.136, 598.137 and 598.138 do not apply to:

1. A contest of skill that does not involve the sale or lease of any goods, property or service.

2. A person who is licensed as a seller or salesperson pursuant to ~~chapter 599B of~~ NRS ~~[,]~~ 599B.005 to 599B.300, inclusive, and is engaging in an activity within the scope of that license.

3. A sale or purchase, or solicitation or representation made in connection with the sale or purchase, of goods from a catalog or of books, recordings, videocassettes, periodicals or other similar goods offered by a seller or membership group which is regulated by the Federal Trade Commission if the seller or membership group sends goods, pursuant to an agreement, to a customer or member for his or her inspection and, if unsatisfied after inspecting the goods, the customer or member is entitled to

receive a full refund of the purchase price of the goods if the goods are returned undamaged to the seller or membership group.

4. A solicitation, advertisement or promotion, or offer to extend credit, made by a commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender or insurer, or any other person engaged in the business of extending credit, who is regulated by an officer or agency of the State or of the Federal Government.

5. A person licensed pursuant to chapter 463 of NRS and his or her employees.

Sec. 2. Chapter 599B of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 27, inclusive, of this act.

Sec. 3. *As used in sections 3 to 24, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Door-to-door commercial solicitation" means making or attempting to make personal contact with a person at his or her residence, without a prior specific invitation by or appointment with the person, primarily for the purpose of:*

1. ~~*Except as otherwise provided in section 5 of this act, soliciting*~~ *Soliciting the sale of a service, goods, wares or merchandise; or*
2. *Personally delivering to the person a handbill or flyer advertising a commercial event, activity, good or service that is offered to the person for purchase at a location away from the residence or at a future time.*

Sec. 5. ~~*"Door-to-door noncommercial solicitation" means making or attempting to make personal contact with a person at his or her residence, without a prior specific invitation by or appointment with the person, primarily for the purpose of:*~~

1. ~~*Soliciting a gift or donation to a nonprofit organization exempt from federal income tax pursuant to 26 U.S.C. § 501(c)(3);*~~
2. ~~*Soliciting the sale of a service, goods, wares or merchandise, with the entire proceeds of the sale to be paid directly to or used exclusively for the benefit of a nonprofit organization exempt from federal income tax pursuant to 26 U.S.C. § 501(c)(3);*~~
3. ~~*Personally delivering to the person a handbill or flyer advertising a future not for profit event, activity or service;*~~
4. ~~*Proselytizing on behalf of a religious organization;*~~
5. ~~*Soliciting support for a political candidate or organization, ballot measure or ideology; or*~~
6. ~~*Soliciting the sale of a newspaper or magazine subscription.*~~ (Deleted by amendment.)

Sec. 6. *"Permit holder" means a person to whom a permit has been issued by the Division pursuant to section 11 of this act.*

Sec. 7. "Permitted solicitor" means an agent or employee of a permit holder who is authorized to engage in door-to-door commercial solicitation pursuant to that permit.

Sec. 8. "Residence" means a private residence in this State, including, without limitation:

1. A condominium unit or apartment; and
2. The yards, grounds or hallways thereof.

Sec. 9. 1. It is unlawful for any person to engage in door-to-door commercial solicitation in this State unless the person is a permit holder or permitted solicitor.

2. Each applicant for a permit must submit a written application to the Division, in the form prescribed by regulation of the Division and made under penalty of perjury. In addition to any other information required by regulation, the application must include or be accompanied by:

(a) The full name and business address and telephone number of the applicant;

(b) A statement of the intended purpose of the door-to-door commercial solicitation;

(c) If the applicant is not a natural person:

(1) A statement of the nature of the applicant as a corporation, limited-liability company or other form of business entity;

(2) The full name and business address and telephone number of each ~~principal~~ director, officer, owner, member or partner of the applicant; and

(3) The name and business address and telephone number of the applicant's registered agent in this State;

(d) A copy of the applicant's state business license issued pursuant to chapter 76 of NRS and any business license required by the local government where the applicant will engage in door-to-door commercial solicitation;

(e) A complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each ~~principal~~ director, officer, owner, member and partner of the applicant, and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(f) A list of the persons who will be authorized to act as permitted solicitors pursuant to the permit if the application is granted and, for each such person:

(1) His or her full name, address, telephone number and date of birth;

(2) A complete set of the fingerprints of the person and written permission authorizing the Division to forward the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for its report;

(3) A physical description of the person, including his or her height, weight, color of eyes and color of hair;

(4) A color photograph of the person, taken not more than 6 months preceding the date of the application, which fairly depicts the appearance of the person as of the date of the application and is suitable for reproduction on an identification badge issued pursuant to section 11 of this act; and

(5) The number and state of issuance of the driver's license of the person, if any, or a copy of another form of photo identification issued by a governmental entity.

3. The applicant must submit with the application:

(a) An application fee of ~~+\$300+~~ \$200;

(b) For each person identified by the applicant as a person who will be authorized to act as a permitted solicitor pursuant to paragraph (f) of subsection 2, an additional fee of \$50 for preparing and issuing an identification badge to that person if the application is granted; and

(c) For each person identified pursuant to paragraphs (e) and (f) of subsection 2, an additional fee, established by regulation of the Division, equal to the sum charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing the person's fingerprints.

Sec. 10. A person is not eligible for a permit or identification badge if:

1. He or she has previously been convicted of a felony or any crime involving theft, fraud or dishonesty under the laws of this State or an equivalent offense under any federal, state or local law or ordinance; or

2. A permit or identification badge issued to the person has ~~previously~~ been revoked during the immediately preceding 2 years by the Division pursuant to section 21 of this act.

Sec. 11. 1. Unless the applicant is not eligible pursuant to section 10 of this act or the Division denies the application pursuant to section 12 of this act, the Division shall approve the application within 5 business days after it receives the report of the Central Repository for Nevada Records of Criminal History relating to the applicant and each of the other persons identified pursuant to paragraphs (e) and (f) of subsection 2 of section 9 of this act. If the Division approves the application, the Division shall issue the requested permit and an identification badge for each person who is identified in the application as a person who will be authorized to act as a permitted solicitor and who is not ineligible pursuant to section 10 of this act.

2. A permit must be issued in the name of the applicant and is not transferable to any other person. The Division shall create and maintain for each permit a list of the persons who are permitted solicitors pursuant to that permit.

3. A permit holder shall:

(a) Provide a copy of the permit to each permitted solicitor who is authorized to engage in solicitation pursuant to the permit;

(b) Ensure that each permitted solicitor complies with the terms and conditions of the permit and the provisions of sections 3 to 24, inclusive, of this act;

(c) Notify the Division in writing of the name of any person to be added to or deleted from the list of persons who are permitted solicitors pursuant to the permit; and

(d) For each person to be added to the list, submit to the Division the information, materials and fees required for such persons by section 9 of this act.

4. The Division shall issue an identification badge to any person identified in a notice given pursuant to paragraph (c) of subsection 3 as a person to be added to the list of persons who are permitted solicitors pursuant to a permit within 5 business days after determining that the person is not ineligible pursuant to section 10 of this act.

5. If a person applies for and is granted a permit, he or she is entitled to obtain an identification badge for each permitted solicitor:

(a) Authorized to engage in solicitation pursuant to that permit; and

(b) Who is not ineligible pursuant to section 10 of this act,

↪ upon compliance with the requirements of this section and section 9 of this act.

6. Each identification badge must include the name and a photograph of the permitted solicitor, the words "Permitted Solicitor" and the name of the permit holder and the expiration date of the permit.

7. The Division shall issue a replacement identification badge to any permitted solicitor who, by affidavit, notifies the Division that his or her identification badge has been lost or stolen and pays the fee for preparing and issuing an identification badge within 5 business days after receiving the affidavit and the fee.

Sec. 12. The Division shall deny an application for a permit or renewal of the permit if the Division determines that the applicant or permit holder:

1. Has made any material misrepresentation or false statement in the application for the permit or for renewal of the permit; or

2. Is not eligible pursuant to section 10 of this act.

Sec. 13. 1. A permit is valid for 2 years after the date of its issuance. Unless his or her name has previously been deleted pursuant to section 11 of this act from the list of permitted solicitors pursuant to the permit, the identification badge of any permitted solicitor expires concurrently with the expiration of the permit.

2. A permit holder who wishes to renew the permit must submit a written application for renewal to the Division, in the form prescribed by regulation of the Division, not later than 60 days before the date the permit expires.

3. An application for renewal of a permit must be made in the same manner and accompanied by the same fees as an application made pursuant to section 9 of this act.

Sec. 14. 1. *In addition to any other requirements of sections 9 and 13 of this act, a natural person who applies for a permit or the renewal of a permit shall:*

(a) Include the social security number of the applicant in the application submitted to the Division.

(b) Submit to the Division 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 or permit holder.

2. *The Division shall include the statement required by subsection 1 in:*

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

(b) A separate form prescribed by the Division.

3. *A permit may not be issued or renewed by the Division if the applicant or permit holder:*

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

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant or permit holder 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 or permit holder indicates on the statement submitted pursuant to subsection 1 that he or she 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 Division shall advise the applicant or permit holder to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant or permit holder may need to take to satisfy the arrearage.*

Sec. 15. 1. *If the Division 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 natural person who is a permit holder, the Division shall deem the permit to be suspended at the end of the 30th day after the date on which the court order was issued unless the Division receives a letter issued to the permit holder by the district attorney or other public agency pursuant to NRS 425.550 stating that the permit holder has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

2. *The Division shall reinstate a permit that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the permit holder whose permit was suspended stating that the permit holder has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

Sec. 16. *The Division shall maintain a record of each permit and identification badge issued and any violation or alleged violation by the permit holder or permitted solicitor of the provisions of sections 3 to 24, inclusive, of this act.*

Sec. 17. *A permitted solicitor shall:*

1. *Conspicuously display his or her identification badge at all times while engaged in door-to-door commercial solicitation.*

2. *Upon the request of a customer, prospective customer or law enforcement officer, exhibit his or her identification badge and a copy of the permit pursuant to which he or she is acting.*

Sec. 18. *A person shall not engage in door-to-door commercial solicitation ~~for door-to-door noncommercial solicitation~~ except during the hours of 9 a.m. and ~~sunset as announced and published for that day by the National Weather Service~~ 7 p.m. Any solicitation of a customer or prospective customer begun during that period must be completed within that period.*

Sec. 19. *It is unlawful:*

1. *For a permit holder ~~or~~ or permitted solicitor ~~for person engaging in door-to-door noncommercial solicitation~~ to enter or remain upon any public or private premises if a "No Solicitation" or "No Trespassing" sign is ~~posted at~~ prominently displayed in public view:*

(a) At or near each entrance to the premises ~~or~~; or

(b) If the premises are located in a gated community, on the entrance gate to the community.

2. ~~*For a permit holder or permitted solicitor to engage in door to door commercial solicitation at any address appearing on the no solicitation list established pursuant to section 20 of this act.*~~

~~3. *For a person to obtain an invitation to visit a private residence for the purpose of soliciting the purchase or sale of goods, services or any other thing of value by knowingly making a false or deceptive representation or statement.*~~

Sec. 20. ~~*1. An owner or lawful occupant of a residence in this State who wishes to prohibit door-to-door commercial solicitation at his or her residence may register the address of the residence with the Division by completing and submitting to the Division the form prescribed by the Division by mail, personal delivery or through the Internet website maintained by the Division. The registration is effective 30 days after it is received by the Division.*~~

~~*2. The Division shall establish, maintain and publish on its Internet website a no solicitation list consisting of all the addresses registered pursuant to subsection 1 and not deleted pursuant to subsection 3. Each permit holder shall obtain and review the no solicitation list immediately upon the receipt of the permit and at such intervals thereafter as are reasonably necessary to comply with the requirements of section 19 of this act.*~~

~~3. Each address appearing on the no solicitation list must remain on the list for 2 years after the date the address is submitted to the Division, at which time the address must be deleted unless, before the expiration of that period:~~

~~(a) A new registration for that address is submitted to and received by the Division pursuant to subsection 1; or~~

~~(b) The owner or occupant of the residence at that address submits to the Division a written request for removal from the list.~~

~~4. Unless a written request for removal from the list has been received by the Division before that date, the Division shall, not later than 60 days before the expiration of the registration, mail a written notice of the expiration to the owner or occupant who submitted the registration, at the address appearing on the list.~~

~~5. Neither the State, the Division nor any of their officers, employees, agents or volunteers are liable to any person for any injury, damage or loss of any kind arising from or relating to any error or omission that occurs in compiling or maintaining the no solicitation list. (Deleted by amendment.)~~

Sec. 21. 1. After a hearing, the Division may suspend, revoke or refuse to renew a permit if the Division determines that the permit holder has:

(a) Made any false or fraudulent statement in applying for the permit or renewal of the permit, including, without limitation, any false or fraudulent statement about the criminal history of the permit holder or a permitted solicitor;

(b) Failed to collect and pay to the Department of Taxation, as required by law, any tax imposed on the gross receipts from the sale, storage, use or other consumption of tangible personal property sold by the permit holder or a permitted solicitor;

(c) Failed to exercise reasonable care in supervising solicitation conducted by a permitted solicitor to ensure that the solicitation is conducted in accordance with the provisions of sections 3 to 24, inclusive, of this act and other provisions of statute applicable to the solicitation;

(d) Violated or condoned a violation of any provision of NRS 207.171, 598.092, 598.140 to 598.2801, inclusive, 609.190, 609.221, 609.240 to 609.260, inclusive, or sections 3 to 24, inclusive, of this act; or

(e) Authorized or condoned solicitation that is otherwise unlawful or solicitation by a permitted solicitor conducted in such a manner as to constitute a menace to the health, safety or general welfare of the public.

2. After a hearing, the Division may suspend or revoke the identification badge of a permitted solicitor who has:

(a) Violated any applicable provision listed in paragraph (d) of subsection 1; or

(b) Otherwise engaged in unlawful solicitation or solicitation conducted in such a manner as to constitute a menace to the health, safety or general welfare of the public.

Sec. 22. *Action taken by the Division to suspend, revoke or refuse to renew a permit or identification badge pursuant to section 21 of this act is a final decision in a contested case for the purposes of chapter 233B of NRS.*

Sec. 23. *The Division may adopt such regulations as it deems necessary to carry out the provisions of sections 3 to 24, inclusive, of this act.*

Sec. 24. *In addition to any disciplinary action authorized by section 21 of this act, unless a greater penalty is prescribed by specific statute, a person who violates a provision of sections 3 to 24, inclusive, of this act is guilty of a misdemeanor.*

Sec. 25. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 26 and 27 of this act have the meanings ascribed to them in those sections.*

Sec. 26. *"Commissioner" means the Commissioner of Consumer Affairs.*

Sec. 27. *"Division" means the Consumer Affairs Division of the Department of Business and Industry.*

Sec. 28. NRS 599B.005 is hereby amended to read as follows:

599B.005 1. The Legislature finds and declares that:

(a) The sale of goods or services or the solicitation of donations by telephone has a significant impact upon the economy and well-being of this state and its local communities.

(b) Many legitimate solicitors by telephone merit certain protections pursuant to the laws of this state.

(c) Certain unscrupulous practices by persons soliciting donations or the sale of goods or services by telephone are contrary to good business practices and have caused consumers to suffer substantial losses because of misrepresentation, the lack of complete information relating to goods, services and the persons initiating or causing the solicitation by telephone, and the lack of delivery of the goods and services purchased.

2. It is the intent of the Legislature to:

(a) Provide each consumer with information necessary to make an intelligent decision relating to donations or offers of sale;

(b) Educate and assist the public to distinguish between honest and dishonest practices of solicitation by telephone;

(c) Safeguard the public against deceptive practices and financial hardship;

(d) Prohibit representations that tend to be misleading;

(e) Ensure, foster and encourage competition and fair dealings among sellers by requiring sellers to disclose certain information adequately; and

(f) Protect the integrity of the industry relating to solicitation by telephone.

3. As the provisions of ~~[this chapter]~~ NRS 599B.005 to 599B.300, inclusive, are necessary to protect the public welfare, it is also the intent of the Legislature that the provisions of ~~[this chapter]~~ those sections be liberally construed to effectuate ~~[its]~~ their purposes.

Sec. 29. NRS 599B.010 is hereby amended to read as follows:

599B.010 As used in ~~{this chapter,}~~ *NRS 599B.005 to 599B.300, inclusive*, unless the context otherwise requires:

1. "Chance promotion" means any plan in which premiums are distributed by random or chance selection.

2. ~~"Commissioner" means the Commissioner of Consumer Affairs.~~

~~3.~~ "Consumer" means a person who is solicited by a seller or salesperson.

~~4. "Division" means the Consumer Affairs Division of the Department of Business and Industry.~~

~~5.~~ 3. "Donation" means a promise, grant or pledge of money, credit, property, financial assistance or other thing of value given in response to a solicitation by telephone, including, but not limited to, a payment or promise to pay in consideration for a performance, event or sale of goods or services. The term does not include volunteer services, government grants or contracts or a payment by members of any organization of membership fees, dues, fines or assessments or for services rendered by the organization to those persons, if:

(a) The fees, dues, fines, assessments or services confer a bona fide right, privilege, professional standing, honor or other direct benefit upon the member; and

(b) Membership in the organization is not conferred solely in consideration for making a donation in response to a solicitation.

~~6.~~ 4. "Goods or services" means any property, tangible or intangible, real, personal or mixed, and any other article, commodity or thing of value.

~~7.~~ 5. "Premium" includes any prize, bonus, award, gift or any other similar inducement or incentive to purchase.

~~8.~~ 6. "Recovery service" means a business or other practice whereby a person represents or implies that he or she will, for a fee, recover any amount of money that a consumer has provided to a seller or salesperson pursuant to a solicitation governed by the provisions of ~~{this chapter,~~

~~9.~~ *NRS 599B.005 to 599B.300, inclusive.*

7. "Salesperson" means any person:

(a) Employed or authorized by a seller to sell, or to attempt to sell, goods or services by telephone;

(b) Retained by a seller to provide consulting services relating to the management or operation of the seller's business; or

(c) Who communicates on behalf of a seller with a consumer:

(1) In the course of a solicitation by telephone; or

(2) For the purpose of verifying, changing or confirming an order,

↪ except that a person is not a salesperson if his or her only function is to identify a consumer by name only and he or she immediately refers the consumer to a salesperson.

~~10.~~ 8. Except as otherwise provided in subsection ~~{11,}~~ 9, "seller" means any person who, on his or her own behalf, causes or attempts to cause a solicitation by telephone to be made through the use of one or more

salespersons or any automated dialing announcing device under any of the following circumstances:

(a) The person initiates contact by telephone with a consumer and represents or implies:

(1) That a consumer who buys one or more goods or services will receive additional goods or services, whether or not of the same type as purchased, without further cost, except for actual postage or common carrier charges;

(2) That a consumer will or has a chance or opportunity to receive a premium;

(3) That the items for sale are gold, silver or other precious metals, diamonds, rubies, sapphires or other precious stones, or any interest in oil, gas or mineral fields, wells or exploration sites or any other investment opportunity;

(4) That the product offered for sale is information or opinions relating to sporting events;

(5) That the product offered for sale is the services of a recovery service; or

(6) That the consumer will receive a premium or goods or services if he or she makes a donation;

(b) The solicitation by telephone is made by the person in response to inquiries from a consumer generated by a notification or communication sent or delivered to the consumer that represents or implies:

(1) That the consumer has been in any manner specially selected to receive the notification or communication or the offer contained in the notification or communication;

(2) That the consumer will receive a premium if the recipient calls the person;

(3) That if the consumer buys one or more goods or services from the person, the consumer will also receive additional or other goods or services, whether or not the same type as purchased, without further cost or at a cost that the person represents or implies is less than the regular price of the goods or services;

(4) That the product offered for sale is the services of a recovery service; or

(5) That the consumer will receive a premium or goods or services if he or she makes a donation; or

(c) The solicitation by telephone is made by the person in response to inquiries generated by advertisements that represent or imply that the person is offering to sell any:

(1) Gold, silver or other metals, including coins, diamonds, rubies, sapphires or other stones, coal or other minerals or any interest in oil, gas or other mineral fields, wells or exploration sites, or any other investment opportunity;

(2) Information or opinions relating to sporting events; or

(3) Services of a recovery service.

~~11-1~~ 9. "Seller" does not include:

(a) A person licensed pursuant to chapter 90 of NRS when soliciting offers, sales or purchases within the scope of his or her license.

(b) A person licensed pursuant to chapter 119A, 119B, 624, 645 or 696A of NRS when soliciting sales within the scope of his or her license.

(c) A person licensed as an insurance broker, agent or solicitor when soliciting sales within the scope of his or her license.

(d) Any solicitation of sales made by the publisher of a newspaper or magazine or by an agent of the publisher pursuant to a written agreement between the agent and publisher.

(e) A broadcaster soliciting sales who is licensed by any state or federal authority, if the solicitation is within the scope of the broadcaster's license.

(f) A person who solicits a donation from a consumer when:

(1) The person represents or implies that the consumer will receive a premium or goods or services with an aggregated fair market value of 2 percent of the donation or \$50, whichever is less; or

(2) The consumer provides a donation of \$50 or less in response to the solicitation.

(g) A charitable organization which is registered or approved to conduct a lottery pursuant to chapter 462 of NRS.

(h) A public utility or motor carrier which is regulated pursuant to chapter 704 or 706 of NRS, or by an affiliate of such a utility or motor carrier, if the solicitation is within the scope of its certificate or license.

(i) A utility which is regulated pursuant to chapter 710 of NRS, or by an affiliate of such a utility.

(j) A person soliciting the sale of books, recordings, videocassettes, software for computer systems or similar items through:

(1) An organization whose method of sales is governed by the provisions of Part 425 of Title 16 of the Code of Federal Regulations relating to the use of negative option plans by sellers in commerce;

(2) The use of continuity plans, subscription arrangements, arrangements for standing orders, supplements, and series arrangements pursuant to which the person periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received; or

(3) An arrangement pursuant to which the person ships merchandise to a consumer who has consented in advance to receive the merchandise and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received.

(k) A person who solicits sales by periodically publishing and delivering a catalog to consumers if the catalog:

(1) Contains a written description or illustration of each item offered for sale and the price of each item;

- (2) Includes the business address of the person;
- (3) Includes at least 24 pages of written material and illustrations;
- (4) Is distributed in more than one state; and
- (5) Has an annual circulation by mailing of not less than 250,000.

(l) A person soliciting without the intent to complete and who does not complete, the sales transaction by telephone but completes the sales transaction at a later face-to-face meeting between the solicitor and the consumer, if the person, after soliciting a sale by telephone, does not cause another person to collect the payment from or deliver any goods or services purchased to the consumer.

(m) Any commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurer subject to regulation by an official or agency of this State or of the United States, if the solicitation is within the scope of the certificate or license held by the entity.

(n) A person holding a certificate of authority issued pursuant to chapter 452 of NRS when soliciting sales within the scope of the certificate.

(o) A person licensed pursuant to chapter 689 of NRS when soliciting sales within the scope of his or her license.

(p) A person soliciting the sale of services provided by a video service provider subject to regulation pursuant to chapter 711 of NRS.

(q) A person soliciting the sale of agricultural products, if the solicitation is not intended to and does not result in a sale of more than \$100 that is to be delivered to one address. As used in this paragraph, "agricultural products" has the meaning ascribed to it in NRS 587.290.

(r) A person who has been operating, for at least 2 years, a retail business establishment under the same name as that used in connection with the solicitation of sales by telephone if, on a continuing basis:

(1) Goods are displayed and offered for sale or services are offered for sale and provided at the person's business establishment; and

(2) At least 50 percent of the person's business involves the buyer obtaining such goods or services at the person's business establishment.

(s) A person soliciting only the sale of telephone answering services to be provided by the person or his or her employer.

(t) A person soliciting a transaction regulated by the Commodity Futures Trading Commission, if:

(1) The person is registered with or temporarily licensed by the Commission to conduct that activity pursuant to the Commodity Exchange Act, 7 U.S.C. §§ 1 et seq.; and

(2) The registration or license has not expired or been suspended or revoked.

(u) A person who contracts for the maintenance or repair of goods previously purchased from the person:

- (1) Making the solicitation; or

(2) On whose behalf the solicitation is made.

(v) A person to whom a license to operate an information service or a nonrestricted gaming license, which is current and valid, has been issued pursuant to chapter 463 of NRS when soliciting sales within the scope of his or her license.

(w) A person who solicits a previous customer of the business on whose behalf the call is made if the person making the call:

(1) Does not offer the customer any premium in connection with the sale;

(2) Is not selling an investment or an opportunity for an investment that is not registered with any state or federal authority; and

(3) Is not regularly engaged in telephone sales.

(x) A person who solicits the sale of livestock.

(y) An issuer which has a class of securities that is listed on the New York Stock Exchange, the American Stock Exchange or the National Market System of the National Association of Securities Dealers Automated Quotation System.

(z) A subsidiary of an issuer that qualifies for exemption pursuant to paragraph (y) if at least 60 percent of the voting power of the shares of the subsidiary is owned by the issuer.

Sec. 30. NRS 599B.015 is hereby amended to read as follows:

599B.015 1. The Attorney General shall provide opinions for the Division on all questions of law relating to the construction, interpretation or administration of ~~[this chapter.]~~ *NRS 599B.005 to 599B.300, inclusive.*

2. The Commissioner shall determine whether a person is required to register pursuant to the provisions of ~~[this chapter.]~~ *NRS 599B.005 to 599B.300, inclusive.* In making that determination, the Commissioner shall consider the definitions, intent, findings and declarations set forth in ~~[this chapter.]~~ *NRS 599B.005 to 599B.300, inclusive.*

Sec. 31. NRS 599B.025 is hereby amended to read as follows:

599B.025 1. The Attorney General may adopt regulations establishing standards of conduct for registrants and any other regulations necessary to exercise the powers and carry out the duties of the Attorney General as set forth in ~~[this chapter.]~~ *NRS 599B.005 to 599B.300, inclusive.*

2. The Commissioner and the Attorney General shall jointly adopt rules of practice establishing a procedure for processing complaints received concerning sellers and salespersons, whether or not the sellers and salespersons are registered pursuant to ~~[this chapter.]~~ *NRS 599B.005 to 599B.300, inclusive.* The rules of practice:

(a) Must provide for the sharing of information and for the initial review of complaints by the Attorney General before mediation by the Commissioner; and

(b) May provide procedures for mediation by the Commissioner after initial review by the Attorney General.

3. The Commissioner may adopt rules of practice necessary to administer and carry out the provisions of ~~[this chapter]~~ *NRS 599B.005 to 599B.300, inclusive*, pertaining to the registration of sellers and salespersons. The rules of practice must not restrict the powers and duties of the Attorney General as set forth in ~~[this chapter]~~ *those sections*.

Sec. 32. NRS 599B.030 is hereby amended to read as follows:

599B.030 The remedies, duties and prohibitions of ~~[this chapter]~~ *NRS 599B.005 to 599B.300, inclusive*, are not exclusive and are in addition to any other remedies provided by law.

Sec. 33. NRS 599B.080 is hereby amended to read as follows:

599B.080 It is unlawful for any person to do business as a seller or salesperson in this State without being registered with the Division pursuant to the provisions of ~~[this chapter]~~ *NRS 599B.005 to 599B.300, inclusive*. For the purposes of this section, a person does business as a seller or salesperson in this State if he or she solicits or causes to be solicited a sale of goods or services or a donation from a location in this State or solicits persons in this State from a location outside this State.

Sec. 34. NRS 599B.100 is hereby amended to read as follows:

599B.100 1. An application filed pursuant to NRS 599B.090 must be accompanied by:

(a) A bond executed by a corporate surety approved by the Commissioner and licensed to do business in this state;

(b) An irrevocable letter of credit issued for the benefit of the applicant by a bank whose deposits are insured by an agency of the Federal Government; or

(c) A certificate of deposit in a financial institution insured by an agency of the Federal Government or by a private insurer approved pursuant to NRS 678.755. The certificate of deposit may be withdrawn only on the order of the Commissioner, except that the interest may accrue to the applicant.

2. The amount of the bond, letter of credit or certificate of deposit must be \$50,000, and the bond, letter of credit or certificate of deposit must be conditioned upon compliance by the applicant with the provisions of ~~[this chapter]~~ *NRS 599B.005 to 599B.300, inclusive*.

3. The amount of the security required to be filed by the seller may be increased to not more than \$250,000 as part of an assurance of discontinuance accepted by the Attorney General pursuant to NRS 599B.235.

4. If, after a registration certificate is issued, the amount of the bond, letter of credit or certificate of deposit which secures the registration falls below the amount that is required by subsection 2 or the amount determined by the Commissioner pursuant to subsection 3, the seller shall be deemed not to be registered pursuant to ~~[this chapter]~~ *NRS 599B.005 to 599B.300, inclusive*, for the purposes of NRS 599B.080.

5. The term of any bond, letter of credit or certificate of deposit, or any renewal thereof, must not be less than 1 year.

6. The Commissioner may reject any bond, letter of credit or certificate of deposit which fails to conform to the requirements of this section.

7. A seller may change the form of the security. If a seller changes the form of the security, the Commissioner may retain for not more than 1 year all or a portion of the security previously filed by the seller as security for claims arising at the time the security was in effect.

8. If no claims have been filed against the bond, letter of credit or certificate of deposit within 6 months after the registrant ceases to operate or his or her registration expires, whichever occurs later, the Commissioner shall release the bond, letter of credit or certificate of deposit to the registrant and shall not audit any claims filed thereafter by consumers. If one or more claims have been filed against the bond, letter of credit or certificate of deposit within 6 months after the registrant ceases to operate or his or her registration expires, whichever occurs later, the proceeds must not be released to the registrant or distributed to any consumer earlier than 1 year after the registrant ceases to operate or his or her registration expires, whichever occurs later. The Division shall not audit any claims which are filed pursuant to NRS 599B.105 more than 1 year after the registrant ceases to operate or his or her registration expires, whichever occurs later. For the purposes of this subsection, the Commissioner shall determine the date on which a registrant ceases to operate.

Sec. 35. NRS 599B.140 is hereby amended to read as follows:

599B.140 1. Each person registered pursuant to the provisions of ~~[this chapter]~~ *NRS 599B.005 to 599B.300, inclusive*, must renew his or her registration annually by:

- (a) Paying the fee for registration;
- (b) Submitting to the Division the application required by NRS 599B.090 or 599B.120, whichever applies; and
- (c) If the person is a seller, submitting to the Division:
 - (1) A copy of the work card obtained by:
 - (I) The seller pursuant to subsection 1 of NRS 599B.115; and
 - (II) Each principal officer, director, trustee, shareholder, owner, partner and employee of the seller, and each salesperson associated with the seller who is not an employee of the seller, pursuant to subsection 2 of NRS 599B.115; and
 - (2) If applicable, a statement listing each person who, pursuant to subsection 5 of NRS 599B.115, is not required to obtain a work card.

2. Registration expires on the anniversary of the issuance of the registration. A registrant who wishes to renew his or her registration must do so on or before the date his or her registration expires.

3. For the purposes of NRS 599B.080, a person who fails to renew his or her registration within the time required by this section is not registered pursuant to ~~[this chapter]~~ *NRS 599B.005 to 599B.300, inclusive*.

4. Except as otherwise provided in NRS 599B.160, if any material change in the information submitted for registration occurs before the date

for renewal, a registrant shall submit that information to the Division within 10 days after the registrant obtains knowledge of the change.

Sec. 36. NRS 599B.150 is hereby amended to read as follows:

599B.150 1. No salesperson may be associated with or employed by more than one seller at the same time.

2. A seller shall cooperate fully with the Commissioner in any investigation made by the Commissioner concerning an alleged violation of the provisions of ~~[this chapter]~~ *NRS 599B.005 to 599B.300, inclusive*, by a salesperson.

Sec. 37. NRS 599B.190 is hereby amended to read as follows:

599B.190 1. Except as otherwise provided in subsection 3, a person who purchases goods or services or makes a donation pursuant to a solicitation governed by ~~[this chapter]~~ *NRS 599B.005 to 599B.300, inclusive*, must be given a refund or replacement, at his or her option, if:

(a) The goods or services are defective, are not as represented or if any item described pursuant to NRS 599B.180 is not received as promised; and

(b) He or she returns the unused goods, if any, or makes a written request for the refund or replacement within 30 days after he or she receives:

(1) The goods or services; or

(2) Any item described pursuant to NRS 599B.180,

↪ whichever is received later. A return or request is timely if shipment is made or the request is postmarked, properly addressed and postage prepaid, within the time provided by this paragraph.

2. A registrant who receives a written request for a refund or replacement shall not require prior authorization for a return of goods and shall give a refund or replacement within 14 days after receipt of the request.

3. If a consumer of goods returns only a portion of the goods, the refund or replacement required by subsection 1 may be prorated accordingly.

4. The refund or replacement required by subsection 1 must be given by the seller, regardless of whether payment for the goods or services is made to the seller or some other person.

5. Except for any proration permitted by subsection 3, a registrant shall not impose any charge in connection with a return of goods or a request for a refund or replacement.

6. If a registrant receives payment by credit card, he or she may issue a refund in the form of a credit to the credit card account of the consumer in lieu of a cash refund.

7. Within 3 days after any purchase of goods or services or upon delivery of the goods or services, whichever is later, or within 3 days after receiving a donation, the seller shall provide the consumer with a written summary of the provisions of this section. The summary must:

(a) Be made in a form prescribed by the Division.

(b) Include the address to which returned goods or a request for refund may be sent.

(c) Be accompanied by a statement containing the information required by paragraph (e) of subsection 1 of NRS 599B.180, if the provisions of that section apply.

(d) If the provisions of paragraph (c) of subsection 2 of NRS 599B.180 apply, be accompanied by a statement concerning the number of persons who have, during the 12 months preceding the solicitation or any portion thereof in which the seller has done business, received the item having the greatest value and the item with the smallest odds of being received.

↪ A summary is timely if it is postmarked, properly addressed and postage prepaid, within the time provided by this subsection.

Sec. 38. NRS 599B.200 is hereby amended to read as follows:

599B.200 A salesperson or seller shall not disclose the name or address of any person who purchases goods or services pursuant to a solicitation governed by ~~[this chapter.]~~ *NRS 599B.005 to 599B.300, inclusive*. Nothing in this section prohibits the disclosure of this information to:

1. Any person employed by or associated with the seller;
2. The Commissioner or any employee of the Division; or
3. Any law enforcement officer or agency that requires the information for investigative purposes.

Sec. 39. NRS 599B.210 is hereby amended to read as follows:

599B.210 1. Every registrant, other than a registrant incorporated in this state, shall file with the Secretary of State an irrevocable consent appointing the Secretary of State as his or her agent to receive service of any lawful process in any action or proceeding against him or her arising pursuant to ~~[this chapter.]~~ *NRS 599B.005 to 599B.300, inclusive*. Any lawful process against the registrant served upon the Secretary of State as provided in subsection 2 has the same force and validity as if served upon the registrant personally.

2. Service of process authorized by subsection 1 must be made by filing with the Secretary of State:

(a) Two copies of the process. The copies must include a specific citation to the provisions of this section. The Secretary of State may refuse to accept such service if the proper citation is not included in each copy.

(b) A fee of \$10.

↪ The Secretary of State shall forthwith forward one copy of the process by registered or certified mail prepaid to the registrant, or in the case of a registrant organized under the laws of a foreign government, to the United States manager or last appointed United States general agent of the registrant, giving the day and the hour of the service.

3. Service of process is not complete until the copy thereof has been mailed and received by the registrant, and the receipt of the addressee is prima facie evidence of the completion of the service.

4. If service of summons is made upon the Secretary of State in accordance with the provisions of this section, the time within which the registrant is required to appear is extended 10 days.

Sec. 40. NRS 599B.213 is hereby amended to read as follows:

599B.213 1. The Attorney General has primary jurisdiction to investigate and prosecute violations of ~~{this chapter}~~ *NRS 599B.005 to 599B.300, inclusive*, and any fraud involving solicitation by telephone.

2. When acting pursuant to this section, the Attorney General may commence his or her investigation and file a criminal action without leave of court, and he or she has exclusive charge of the conduct of the prosecution.

Sec. 41. NRS 599B.215 is hereby amended to read as follows:

599B.215 1. The Attorney General may conduct an investigation to determine whether a person, either directly or indirectly, has violated, is violating or is about to violate any of the provisions of ~~{this chapter}~~ *NRS 599B.005 to 599B.300, inclusive*, or any regulation adopted pursuant thereto.

2. If the Attorney General has reason to believe that any person, either directly or indirectly, has violated, is violating or is about to violate any of the provisions of ~~{this chapter}~~ *NRS 599B.005 to 599B.300, inclusive*, or any regulation adopted pursuant thereto, the Attorney General may:

- (a) Issue a subpoena to require the testimony of any person;
- (b) Issue a subpoena to require the production of any documents; or
- (c) Administer an oath or affirmation to any person providing testimony pursuant to a subpoena.

3. A subpoena issued pursuant to subsection 2 must be served in the manner provided in the Nevada Rules of Civil Procedure.

Sec. 42. NRS 599B.235 is hereby amended to read as follows:

599B.235 1. The Attorney General may accept an assurance of discontinuance of any violation of the provisions of ~~{this chapter}~~ *NRS 599B.005 to 599B.300, inclusive*, or any regulation adopted pursuant thereto. The assurance may include a stipulation for the payment of money to this state by the alleged violator, including but not limited to, payment for the costs of investigation, for the costs of instituting the action or proceeding and for the restitution of any money or property acquired as a result of the violation.

2. Proof by a preponderance of evidence of a violation of an assurance given pursuant to subsection 1 constitutes prima facie evidence of a violation of the applicable statutes or regulations for the purpose of any civil action or proceeding brought thereafter by the Attorney General, whether the action or proceeding is a new action or a subsequent motion or petition in a pending action or proceeding.

Sec. 43. NRS 599B.245 is hereby amended to read as follows:

599B.245 1. If the Attorney General has reason to believe that a person, either directly or indirectly, has violated, is violating or is about to violate any of the provisions of ~~{this chapter}~~ *NRS 599B.005 to 599B.300, inclusive*, or any regulation adopted pursuant thereto, he or she may institute an appropriate legal proceeding against the person. The district court, upon a showing that the person, either directly or indirectly, has violated, is violating

or is about to violate any of the provisions of ~~[this chapter]~~ *NRS 599B.005 to 599B.300, inclusive*, or any regulation adopted pursuant thereto, may grant the following remedies, as appropriate:

- (a) Issue a temporary or permanent injunction;
- (b) Impose a civil penalty not to exceed \$5,000 for each violation;
- (c) Issue a declaratory judgment;
- (d) Order restitution for consumers;
- (e) Provide for the appointment of a receiver;
- (f) Order the payment of attorney's fees and costs; and
- (g) Order such other relief as the court deems just.

2. Any person who violates a court order or injunction issued pursuant to subsection 1 shall, upon a complaint brought by the Attorney General, pay a civil penalty of not more than \$50,000 for each violation.

Sec. 44. NRS 599B.255 is hereby amended to read as follows:

599B.255 1. Except as otherwise provided in NRS 599B.213, the Attorney General or the district attorney of any county in this state may prosecute a person who willfully violates, either directly or indirectly, the provisions of ~~[this chapter]~~ *NRS 599B.005 to 599B.300, inclusive*. Except as otherwise provided in subsection 3, such a person:

- (a) For the first offense within 10 years, is guilty of a misdemeanor.
- (b) For the second offense within 10 years, is guilty of a gross misdemeanor.
- (c) For the third and all subsequent offenses within 10 years, is guilty of a category D felony and shall be punished as provided in NRS 193.130, or by a fine of not more than \$50,000, or by both fine and the punishment provided in NRS 193.130.

2. Any offense which occurs within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 1 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

3. A person who violates any provision of NRS 599B.080 is guilty of a category D felony and shall be punished as provided in NRS 193.130, or by a fine of not more than \$50,000, or by both fine and the punishment provided in NRS 193.130.

4. Property or proceeds attributable to any violation pursuant to the provisions of this section are subject to forfeiture in the manner provided by NRS 179.1156 to 179.121, inclusive.

Sec. 45. NRS 599B.260 is hereby amended to read as follows:

599B.260 1. Except as otherwise provided in subsection 2, all fees, civil penalties and any other money collected pursuant to ~~[this chapter]~~ *NRS 599B.005 to 599B.300, inclusive*, in an action brought by the Attorney General must be deposited in the State General Fund and may only be used to defray the costs of:

- (a) Administering and enforcing the provisions of ~~[this chapter]~~ *NRS 599B.005 to 599B.300, inclusive*.

(b) Enforcing the provisions of chapter 598 of NRS as they relate to the conduct of sellers and salespersons, whether or not the sellers and salespersons are registered pursuant to ~~[this chapter.]~~ *NRS 599B.005 to 599B.300, inclusive.*

2. The provisions of this section do not apply to:

(a) Criminal fines imposed pursuant to the provisions of ~~[this chapter.]~~ *NRS 599B.005 to 599B.300, inclusive;* or

(b) Restitution ordered in an action brought by the Attorney General pursuant to the provisions of ~~[this chapter.]~~ *NRS 599B.005 to 599B.300, inclusive.* Money collected for restitution ordered in such an action must be deposited by the Attorney General and credited to the appropriate account of the Division or the Attorney General for distribution to the person for whom the restitution was ordered.

Sec. 46. NRS 228.380 is hereby amended to read as follows:

228.380 1. Except as otherwise provided in this section, the Consumer's Advocate may exercise the power of the Attorney General in areas of consumer protection, including, but not limited to, enforcement of chapters 90, 597, 598, 598A, 598B, 598C ~~[, 599B]~~ of NRS, *NRS 599B.005 to 599B.300, inclusive,* and *chapter 711* of NRS.

2. The Consumer's Advocate may not exercise any powers to enforce any criminal statute set forth in:

(a) Chapter 90, 597, 598, 598A, 598B ~~[,]~~ or 598C ~~[or 599B]~~ of NRS or *NRS 599B.005 to 599B.300, inclusive,* for any transaction or activity that involves a proceeding before the Public Utilities Commission of Nevada if the Consumer's Advocate is participating in that proceeding as a real party in interest on behalf of the customers or a class of customers of utilities; or

(b) Chapter 711 of NRS.

3. The Consumer's Advocate may expend revenues derived from NRS 704.033 only for activities directly related to the protection of customers of public utilities.

4. The powers of the Consumer's Advocate do not extend to proceedings before the Public Utilities Commission of Nevada directly relating to discretionary or competitive telecommunication services.

Sec. 47. 1. This act becomes effective on July 1, 2014.

2. Sections 14 and 15 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or 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 for the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.

Senator Jones moved the adoption of the amendment.

Remarks by Senator Jones.

Amendment No. 213 makes six changes to Senate Bill No. 261. It removes the definition of door-to-door non-commercial solicitation. It also reduces the application fee to \$200 and reduces the ban on receiving a permit after revocation to two years. Further, the amendment clarifies that door-to-door solicitation may be engaged in during the hours of 9 a.m. and 7 p.m. and that a "No Solicitation" sign must be prominently displayed to the public, either at the door or entrance to a gated community. Finally, Amendment No. 213 to Senate Bill No. 261 deletes provisions pertaining to a "no solicitation list."

Amendment adopted.

Senator Jones moved that Senate Bill No. 261 be re-referred to the Committee on Finance upon return from reprint.

Motion carried.

Bill ordered reprinted, engrossed and to the Committee on Finance.

Senate Bill No. 269.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 287.

"SUMMARY—Revises provisions governing education. (BDR 34-892)"

"AN ACT relating to education; requiring the principal of a public school ~~or a designee of the principal~~ to provide certain pupils with a written statement verifying that the pupil has complied with certain attendance ~~and academic~~ requirements; authorizing a school police officer or certain other persons to impose administrative sanctions against a pupil who is a habitual truant; revising the actions the principal of a school and an advisory board to review school attendance may implement for a pupil who is declared a habitual truant; and providing other matters properly relating thereto."

If this amendment is adopted, the Legislative Counsel's Digest will be changed as follows:

Legislative Counsel's Digest:

Existing law provides that a child who has been declared truant three or more times within one school year must be declared a habitual truant. (NRS 392.140) Existing law also authorizes the principal of a school to: (1) report a pupil who is declared a habitual truant to a school police officer or to the local law enforcement agency for investigation and issuance of a citation; or (2) refer a pupil who is declared a habitual truant to the advisory board to review school attendance. (NRS 392.144) Existing law further prescribes the duties of an advisory board to review school attendance upon receipt of a written referral from the principal of a school and sets forth the actions the advisory board may take against the pupil who is the subject of the written referral. (NRS 392.147) Sections 7 and 8 of this bill revise the actions which the principal of the school and the advisory board to review school attendance may take to include a referral of the pupil for the imposition of administrative sanctions pursuant to section 5 of this bill. Section 5 authorizes the school police officer or, if a public school does not have a school police officer, the person designated by the principal of the

school to impose administrative sanctions against a pupil who is a habitual truant, which include the delaying of the ability of a pupil to receive a driver's license and the suspension of the pupil's driver's license. Section 5 also sets forth certain duties of the Department of Motor Vehicles. Section 5 further authorizes the parent or legal guardian of a pupil against whom administrative sanctions have been imposed to appeal the imposition of those administrative sanctions to the ~~[principal or the principal's]~~ designee ~~[]~~ of the board of trustees of the school district.

Existing law prescribes the requirements for the issuance of a driver's license to a person who is 16 or 17 years of age and the requirements for the issuance of a restricted driver's license to a person who is between the ages of 14 and 18 years. (NRS 483.2521, 483.267, 483.270) Sections 11-13 of this bill revise the requirements for the issuance of those driver's licenses to require the applicant to submit to the Department of Motor Vehicles written verification that the person: (1) complies with the minimum attendance ~~[and academic]~~ requirements in public school; (2) is exempt from compulsory public school attendance; (3) has received a high school diploma or certificate of attendance; or (4) has passed the test of general educational development.

Section 4 of Senate Bill No. 269 is hereby amended as follows:

Sec. 4. 1. The principal of a public school or a designee of the principal shall, upon written request by a pupil who is between the ages of 14 and 18 years and who is enrolled in the school, provide the pupil a written statement signed by the principal or the designee verifying that the pupil has
~~f~~

~~(a) Complied~~ complied with the minimum attendance requirements established by the board of trustees of the school district pursuant to NRS 392.122 . f and

~~(b) Maintained passing grades, as prescribed by the board of trustees of the school district in which the pupil is enrolled.]~~

2. The principal of a public school or a designee of the principal shall not provide a written statement pursuant to subsection 1 unless the pupil satisfies the requirements ~~[of both paragraphs (a) and (b)]~~ of that subsection.

3. The written statement provided to the pupil pursuant to subsection 1 may be used for the purposes of submitting materials that must accompany an application for a driver's license pursuant to NRS 483.2521 or an application for a restricted license pursuant to NRS 483.267 and 483.270.

4. The board of trustees of each school district shall prescribe a standard form for use by the principals employed by the school district and their designees pursuant to this section.

Section 5 of Senate Bill No. 269 is hereby amended as follows:

Sec. 5. 1. Upon receipt of a report pursuant to NRS 392.144 or 392.147, if it appears after investigation and a hearing that a pupil is a habitual truant, a school police officer or a person designated pursuant to

subsection ~~77~~ 6 may issue an order imposing the following administrative sanctions against a pupil:

(a) If it is the first time that administrative sanctions have been issued pursuant to this section because the pupil is a habitual truant, and the pupil is 14 years of age or older, order the suspension of the driver's license of the pupil for at least 30 days but not more than 6 months. If the pupil does not possess a driver's license, the order must provide that the pupil is prohibited from applying for a driver's license for 30 days:

(1) Immediately following the date of the order if the pupil is eligible to apply for a driver's license; or

(2) After the date the pupil becomes eligible to apply for a driver's license if the pupil is not eligible to apply for a driver's license.

(b) If it is the second time or any subsequent time that administrative sanctions have been issued pursuant to this section because the pupil is a habitual truant, and the pupil is 14 years of age or older, order the suspension of the driver's license of the pupil for at least 60 days but not more than 1 year. If the pupil does not possess a driver's license, the order must provide that the pupil is prohibited from applying for a driver's license for 60 days immediately following:

(1) The date of the order if the pupil is eligible to apply for a driver's license; or

(2) The date the pupil becomes eligible to apply for a driver's license if the pupil is not eligible to apply for a driver's license.

2. If a pupil applies for a driver's license, the Department of Motor Vehicles shall:

(a) Notify the pupil of the provisions of this section that authorize the suspension of the driver's license of the pupil; and

(b) Require the pupil to sign an affidavit acknowledging that the pupil is aware that his or her driver's license may be suspended pursuant to this section.

3. If an order is issued pursuant to this section delaying the ability of the pupil to receive a driver's license, a copy of the order must be forwarded to the Department of Motor Vehicles not later than 5 days after the order is issued.

4. If an order is issued pursuant to this section suspending the driver's license of a pupil:

(a) The pupil shall surrender his or her driver's license to the school police officer or the person designated pursuant to subsection ~~77~~ 6.

(b) Not later than 5 days after issuing the order, the school police officer or the designated person shall forward to the Department of Motor Vehicles a copy of the order and the driver's license of the pupil.

(c) The Department of Motor Vehicles:

(1) Shall report the suspension of the driver's license of the pupil to an insurance company or its agent inquiring about the pupil's driving record,

but such a suspension must not be considered for the purpose of rating or underwriting.

(2) Shall not treat the suspension in the manner statutorily required for moving traffic violations.

(3) Shall not require the pupil to submit to the tests and other requirements which are adopted by regulation pursuant to subsection 1 of NRS 483.495 as a condition of reinstatement or reissuance after the suspension of a driver's license.

5. ~~The parent or legal guardian of a pupil may request a hearing before the principal or a person designated by the board of trustees of the school district in which the pupil is enrolled for the principal's designee to appeal the imposition of any administrative sanctions pursuant to this section. The principal or the principal's designee~~ person designated by the board of trustees shall, not later than 30 days after receipt of the request, hold a hearing to review the reason for the imposition of any administrative sanctions. Not later than 30 days after the hearing, the principal person designated by the board of trustees shall issue a written decision affirming, denying or modifying the decision to impose administrative sanctions and mail a copy of the decision to the parent or legal guardian of the pupil.

6. ~~The parent or legal guardian of a pupil is entitled to judicial review in district court of the decision to impose administrative sanctions pursuant to this section in the same manner that final decisions of state agencies are reviewed pursuant to chapter 233B of NRS.~~

~~7.~~ If a public school does not have a school police officer assigned to it, the principal of the school may designate a qualified person to carry out the requirements of this section.

Section 11 of Senate Bill No. 269 is hereby amended as follows:

Sec. 11. NRS 483.2521 is hereby amended to read as follows:

483.2521 1. The Department may issue a driver's license to a person who is 16 or 17 years of age if the person:

(a) Except as otherwise provided in subsection 2, has completed:

(1) A course in automobile driver education pursuant to NRS 389.090;

or

(2) A course provided by a school for training drivers which is licensed pursuant to NRS 483.700 to 483.780, inclusive, and which complies with the applicable regulations governing the establishment, conduct and scope of automobile driver education adopted by the State Board of Education pursuant to NRS 389.090;

(b) Has at least 50 hours of supervised experience in driving a motor vehicle with a restricted license, instruction permit or restricted instruction permit issued pursuant to NRS 483.267, 483.270 or 483.280, including, without limitation, at least 10 hours of experience in driving a motor vehicle during darkness;

(c) Submits to the Department, on a form provided by the Department, a log which contains the dates and times of the hours of supervised experience required pursuant to this section and which is signed:

(1) By his or her parent or legal guardian; or

(2) If the person applying for the driver's license is an emancipated minor, by a licensed driver who is at least 21 years of age or by a licensed driving instructor,

↳ who attests that the person applying for the driver's license has completed the training and experience required pursuant to paragraphs (a) and (b);

(d) *Submits to the Department:*

(1) *A written statement signed by the principal of the public school in which the person is enrolled or by a designee of the principal and which is provided to the person pursuant to section 4 of this act;*

(2) *A written statement signed by the parent or legal guardian of the person which states that the person is excused from compulsory attendance pursuant to NRS 392.070;*

(3) *A copy of the person's high school diploma or certificate of attendance; or*

(4) *A copy of the person's certificate of general educational development;*

(e) Has not been found to be responsible for a motor vehicle accident during the 6 months before applying for the driver's license;

~~{(e)}~~ (f) Has not been convicted of a moving traffic violation or a crime involving alcohol or a controlled substance during the 6 months before applying for the driver's license; and

~~{(f)}~~ (g) Has held an instruction permit for not less than 6 months before applying for the driver's license.

2. If a course described in paragraph (a) of subsection 1 is not offered within a 30-mile radius of a person's residence, the person may, in lieu of completing such a course as required by that paragraph, complete an additional 50 hours of supervised experience in driving a motor vehicle in accordance with paragraph (b) of subsection 1.

Section 12 of Senate Bill No. 269 is hereby amended as follows:

Sec. 12. NRS 483.267 is hereby amended to read as follows:

483.267 1. The Department may issue a restricted license to any applicant between the ages of 14 and 18 years which entitles the applicant to drive a motor vehicle upon a highway if a member of his or her household has a medical condition which renders that member unable to operate a motor vehicle, and a hardship exists which requires the applicant to drive.

2. An application for a restricted license under this section must:

(a) Be made upon a form provided by the Department.

(b) Contain a statement that a person living in the same household with the applicant suffers from a medical condition which renders that person unable to operate a motor vehicle and explaining the need for the applicant to drive.

(c) Be signed and verified as provided in NRS 483.300.

(d) *Include:*

(1) *A written statement signed by the principal of the public school in which the applicant is enrolled or by a designee of the principal and which is provided to the applicant pursuant to section 4 of this act;*

(2) *A written statement signed by the parent or legal guardian of the applicant which states that the applicant is excused from compulsory school attendance pursuant to NRS 392.070;*

(3) *A copy of the applicant's high school diploma or certificate of attendance; or*

(4) *A copy of the applicant's certificate of general educational development.*

(e) Contain such other information as may be required by the Department.

3. A restricted license issued pursuant to this section:

(a) Is effective for the period specified by the Department;

(b) Authorizes the licensee to operate a motor vehicle on a street or highway only under conditions specified by the Department; and

(c) May contain other restrictions which the Department deems necessary.

4. No license may be issued under this section until the Department is satisfied fully as to the applicant's competency and fitness to drive a motor vehicle.

Section 13 of Senate Bill No. 269 is hereby amended as follows:

Sec. 13. NRS 483.270 is hereby amended to read as follows:

483.270 1. The Department may issue a restricted license to any pupil between the ages of 14 and 18 years who is attending:

(a) A public school in a school district in this State in a county whose population is less than 55,000 or in a city or town whose population is less than 25,000 when transportation to and from school is not provided by the board of trustees of the school district, if the pupil meets the requirements for eligibility adopted by the Department pursuant to subsection 5; or

(b) A private school meeting the requirements for approval under NRS 392.070 when transportation to and from school is not provided by the private school,

↳ and it is impossible or impracticable to furnish such pupil with private transportation to and from school.

2. An application for the issuance of a restricted license under this section must:

(a) Be made upon a form provided by the Department.

(b) Be signed and verified as provided in NRS 483.300.

(c) *Include a written statement signed by the:*

(1) *Principal of the public school in which the pupil is enrolled or by a designee of the principal and which is provided to the applicant pursuant to section 4 of this act; or*

(2) *Parent or legal guardian of the pupil which states that the pupil is excused from compulsory school attendance pursuant to NRS 392.070.*

(d) Contain such other information as may be required by the Department.

3. Any restricted license issued pursuant to this section:

(a) Is effective only for the school year during which it is issued or for a more restricted period.

(b) Authorizes the licensee to drive a motor vehicle on a street or highway only while going to and from school, and at a speed not in excess of the speed limit set by law for school buses.

(c) May contain such other restrictions as the Department may deem necessary and proper.

(d) May authorize the licensee to transport as passengers in a motor vehicle driven by the licensee, only while the licensee is going to and from school, members of his or her immediate family, or other minor persons upon written consent of the parents or guardians of such minors, but in no event may the number of passengers so transported at any time exceed the number of passengers for which the vehicle was designed.

4. No restricted license may be issued under the provisions of this section until the Department is satisfied fully as to the applicant's competency and fitness to drive a motor vehicle.

5. The Department shall adopt regulations that set forth the requirements for eligibility of a pupil to receive a restricted license pursuant to paragraph (a) of subsection 1.

Section 17 of Senate Bill No. 269 is hereby amended as follows:

Sec. 17. This act becomes effective on ~~July~~ January 1, ~~2013~~ 2015.

Senator Ford moved the adoption of the amendment.

Remarks by Senator Ford.

Thank you, Mr. President. Amendment No. 287 makes several changes to Senate Bill No. 269. First, it removes the academic requirements from the bill that students maintain passing grades in order to apply for and maintain a driver's license. Second, it deletes provisions of the bill that would have provided the option of a judicial review of an adverse decision in district court. Third, the amendment revises various provisions throughout the bill concerning the school principal to read "the principal or the principal's designee or designees." Fourth, it removes language specifying that the principal be a party to the appeals process set forth in the bill, and instead provides that the school district board of trustees shall indicate the person or persons who will be part of the appeals hearing requested by a parent. Finally, Amendment No. 287 to Senate Bill No. 269 changes the effective date of the bill to January 1, 2015, to accommodate new technology that will allow several school districts to accurately account for truancy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 317.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 240.

"SUMMARY—Revises provisions relating to franchises for sales of motor vehicles. (BDR 43-942)"

"AN ACT relating to vehicle dealers; revising provisions relating to franchise agreements between a manufacturer, distributor or factory branch and a vehicle dealer; and providing other matters properly relating thereto." Legislative Counsel's Digest:

Under existing law, it is an unfair act or practice for a manufacturer or distributor of vehicles and certain related entities to require a dealer to agree to a term or condition of a franchise agreement which violates certain provisions which are related to such franchises. (NRS 482.3638) This bill clarifies an existing statute by expressly providing that it is also an unfair act or practice for the manufacturer or distributor of vehicles and certain related entities to require a dealer to agree to any terms or conditions of a franchise agreement which waive such provisions and that any ~~such~~ waiver of such provisions is void and unenforceable.

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

Section 1. NRS 482.3638 is hereby amended to read as follows:

482.3638 It is an unfair act or practice for any manufacturer, distributor or factory branch, directly or through any representative, to:

1. Require a dealer to agree to a release, assignment, novation, waiver or estoppel which purports to relieve any person from liability imposed by this chapter, or require any controversy between a dealer and a manufacturer, distributor or representative to be referred to any person or agency except as set forth in this chapter if that referral would be binding on the dealer, except that this section does not prevent the parties from mutually agreeing to arbitration pursuant to law.

2. Require a dealer to agree to the jurisdiction, venue or tribunal in which a controversy arising under the provisions of the franchise agreement may or may not be submitted for resolution, or prohibit a dealer from bringing an action in any forum allowed by Nevada law.

3. Require a dealer to agree to a term or condition of a franchise agreement which violates *or waives* any provision of NRS 482.36311 to 482.36425, inclusive. ~~Any such~~ A waiver of any provision of NRS 482.36311 to 482.36425, inclusive, is void and unenforceable.

4. Require a dealer to waive a trial by jury in actions involving the manufacturer, distributor or factory branch.

5. Increase prices of new vehicles which the dealer had ordered for private retail consumers before the dealer receives the written official notification of a price increase. A sales contract signed by a retail consumer constitutes evidence of each order. Price changes applicable to new models or series of vehicles at the time of the introduction of the new models or series shall not be deemed a price increase. Price changes caused by:

(a) The addition to a vehicle of equipment formerly optional as standard or required equipment pursuant to state or federal law;

(b) Revaluation of the United States dollar in the case of foreign-made vehicles; or

(c) Transportation cost increases,
↪ are not subject to this subsection.

6. Deny the principal owner the opportunity to designate his or her spouse, a member of his or her family, a qualified manager, or a trust or other artificial person controlled by any of them as entitled to participate in the ownership of:

- (a) The franchised dealership;
- (b) A successor franchised dealership for 2 years or a longer reasonable time after the incapacity of the principal owner; or
- (c) A successor franchised dealership after the death of the principal in accordance with NRS 482.36396 to 482.36414, inclusive.

7. Modify unilaterally, replace, enter into, relocate, terminate or refuse to renew a franchise in violation of law.

8. Terminate or refuse to approve a transfer of a franchise for a dealership, or honor the right of succession set forth in a franchise agreement or refuse to approve the transfer of a controlling interest in a dealership because the dealer has, before October 1, 1997, established an additional franchise to sell or service another line or make of new vehicles in the same facility as the existing dealership.

9. Prevent a dealer from establishing, on or after October 1, 1997, an additional franchise to sell or service another line or make of new vehicles in the same facility as the existing dealership if the dealer:

- (a) Submits a written request for approval of the additional franchise to the manufacturer, distributor or factory branch of the existing dealership;
- (b) Complies with the reasonable requirements for approval set forth in the franchise of the existing dealership; and
- (c) Obtains the approval of the manufacturer, distributor or factory branch of the existing dealership.

↪ The manufacturer, distributor or factory branch shall notify the dealer in writing of its decision to approve or deny the request within 90 days after receipt of the request. The manufacturer, distributor or factory branch shall not unreasonably withhold its approval. If the request is denied, the material reasons for the denial must be stated. Failure to approve or deny the request, in writing, within 90 days has the effect of approval.

Sec. 2. This act becomes effective on July 1, 2013.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

Thank you, Mr. President. Amendment No. 240 to Senate Bill No. 317 removes the word “such” to indicate that any waiver of any provision related to “Franchises for Sales of Motor Vehicles” as in Sections 36311 through 36425 of Chapter 482 of *Nevada Revised Statutes*, inclusive, is void and unenforceable.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 318.

Bill read second time.

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

Amendment No. 359.

"SUMMARY—Requires the ~~Legislative Committee on Health Care~~ Commissioner of Insurance to conduct ~~an interim~~ a study concerning claims, coverage and payments under policies of dental and health insurance. (BDR S-1061)"

"AN ACT relating to insurance; requiring the ~~Legislative Committee on Health Care~~ Commissioner of Insurance to conduct ~~an interim~~ a study concerning claims, coverage and payments under policies of dental and health insurance; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the ~~Legislative Committee on Health Care to analyze the overall system of health care in this State and to examine the business of providing~~ Commissioner of Insurance to conduct examinations and investigations of insurance, (NRS 439B.220) matters. (NRS 679B.120) This bill requires the ~~Committee~~ Commissioner to conduct a study ~~during the 2013-2014 interim~~ concerning topics relating to claims, coverage and payments under policies of dental and health insurance, including issues relating to the coordination of benefits for coverage of procedures, including, without limitation, oral surgery, where the patient has multiple dental or medical plans which may provide coverage, ~~and~~ and submit a report of the results of the study to the Legislative Committee on Health Care on or before June 1, 2014.

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

Section 1. 1. The ~~Legislative Committee on Health Care~~ Commissioner of Insurance shall conduct a study ~~during the 2013-2014 interim~~ concerning topics relating to claims, coverage and payments under policies of dental and health insurance.

2. The study must include a review of:

(a) The coordination of benefits for coverage of procedures, including, without limitation, oral surgery, where the patient has multiple dental plans, multiple medical plans or both dental and medical plans which may provide coverage; and

(b) Any other issues relating to claims, coverage or payments under policies of dental and health insurance, including, without limitation, annual limits for dental insurance benefit payouts, annual deductibles for dental insurance and the ability of health care providers, including oral surgeons, to receive timely payment for services.

3. ~~The Legislative Committee on Health Care~~ On or before June 1, 2014, the Commissioner of Insurance shall submit a report of the results of the study conducted pursuant to subsection 1 and any recommendations for

legislation to the ~~[Director of the]~~ Legislative ~~[Counsel Bureau for transmission to the 78th Session of the Nevada Legislature.]~~ Committee on Health Care.

Sec. 2. This act becomes effective on July 1, 2013.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Amendment No. 359 to Senate Bill No. 318 requires the Nevada Commissioner of Insurance, rather than the Legislative Committee on Health Care, to conduct a study of claims, coverage and payments under dental and health insurance policies. The Commissioner is also required to present the study results to the Legislative Committee on Health Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 322.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 409.

"SUMMARY—Revises provisions concerning the membership of the Board of Directors of the Department of Transportation. (BDR 35-1075)"

"AN ACT relating to the Department of Transportation; revising the number of members on the Board of Directors of the Department; revising provisions relating to the appointment of persons to the Board; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for a seven-member Board of Directors that administers the Department of Transportation. (NRS 408.106) The Board includes the Governor, the Lieutenant Governor, the Attorney General and the State Controller, all of whom serve ex officio, and three members who are appointed by the Governor, who must be residents of the State of Nevada and who must each reside in a different highway district. Section 1 of this bill enlarges the Board to 11 members, all of whom are to be appointed by the Governor. Eight of the Board members must reside in a county whose population is 700,000 or more (currently only Clark County), two must reside in a county whose population is 400,000 or more but less than 700,000 (currently only Washoe County) and one must reside in a county whose population is less than 400,000 (currently all counties except Clark and Washoe Counties). Section 1 also limits a member's service on the Board to an initial term and one additional term of 4 years. Section 2 of this bill requires the Board to alternate the location of its meetings between the southern part of the State and the northern part of the State. Section 3 of this bill provides that the terms of the current members of the Board expire on December 31, 2013, and requires the Governor to appoint 11 new members to the Board on or before January 1, 2014, with staggered initial terms

whereby 6 of the new members will serve an initial term of 4 years, and 5 of the new members will serve an initial term of 5 years.

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

Section 1. NRS 408.106 is hereby amended to read as follows:

408.106 1. There is hereby created a Department of Transportation, administered by ~~{a seven member}~~ *an 11-member* Board of Directors ~~{consisting of the Governor, the Lieutenant Governor, the Attorney General and the State Controller, who serve ex officio, and three members}~~ who are appointed by the Governor. ~~{If one of the four constitutional offices is vacant, the Secretary of State shall serve ex officio on the Board until the vacancy is filled.}~~

2. The Governor shall appoint as members of the Board ~~{three}~~ *11* persons ~~{who are residents of Nevada, informed on and interested in the construction and maintenance of highways and other matters relating to transportation. Each member must be}~~, *each* chosen by the Governor from a separate list of three persons submitted to the Governor by the Legislative Commission. ~~{Eight of the}~~ ~~{three}~~ *The* members so appointed must ~~{reside in a}~~ ~~{different highway district and}~~ *be residents of Nevada as follows:*

(a) Eight members who must reside in a county whose population is 700,000 or more, ~~{two of the members so appointed}~~ including:

(1) Two members who reside in the unincorporated area of the county;

(2) Two members who reside in the largest incorporated city of the county; and

(3) One member, who resides in the county, from each of the four next largest incorporated cities in the county;

(b) Two members who must reside in a county whose population is 400,000 or more but less than 700,000; and ~~{one member so appointed}~~

(c) One member who must reside in a county whose population is less than 400,000.

3. All the members ~~{so}~~ appointed pursuant to subsection 2 must be informed on and interested in the construction and maintenance of highways and other matters relating to transportation, and must possess at least one of the following qualifications:

(a) Knowledge of engineering evidenced by the possession of a bachelor of science degree in civil or structural engineering and licensure in this State as a professional engineer.

(b) Demonstrated expertise in financial matters and business administration.

(c) Demonstrated expertise in the business of construction evidenced by the possession of a license as a general contractor and experience as a principal officer of a firm licensed in this State.

↪ The Governor shall not appoint *to the Board* any person who is currently employed in the field of or has a substantial financial interest in the construction or maintenance of highways in this State.

~~3~~ 4. The ~~Government shall serve as the Chair of the Board and the~~ members of the Board shall elect annually a *Chair and a Vice Chair*.

~~4~~ 5. Each member of the Board who is not a public officer is entitled to receive as compensation \$80 for each day or portion of a day during which the member attends a meeting of the Board or is otherwise engaged in the business of the Board plus the per diem allowance and travel expenses provided for state officers and employees generally.

~~5~~ 6. After the initial terms, the ~~appointed~~ members of the Board shall serve terms of 4 years. *Each member of the Board may serve only an initial term and 1 additional term of 4 years.*

Sec. 2. NRS 408.126 is hereby amended to read as follows:

408.126 ~~The~~

1. *Except as otherwise provided in subsection 2, the Board shall hold meetings at such times and places, and for such periods and purposes, as it deems essential to the proper execution of the provisions of this chapter.*

2. *The Board shall alternate the location of its meetings between the southern part of the State and the northern part of the State.*

Sec. 3. 1. The term of any member of the Board of Directors of the Department of Transportation who is serving on December 31, 2013, expires on that date.

2. On or before January 1, 2014, the Governor shall appoint to the Board of Directors:

(a) Six members to terms that expire on December 31, 2017, four of whom must reside in a county whose population is 700,000 or more, one of whom must reside in a county whose population is more than 400,000 but less than 700,000 and one of whom must reside in a county whose population is less than 400,000; and

(b) Five members to terms that expire on December 31, 2018, four of whom must reside in a county whose population is 700,000 or more and one of whom must reside in a county whose population is more than 400,000 but less than 700,000.

Sec. 4. This act becomes effective on January 1, 2014.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

Amendment No. 409 to Senate Bill No. 322 provides for that eight members of the Board of Directors of the Department of Transportation must be appointed from Clark County. The amendment further defines the residency requirements for those eight members: (1) two members must reside in the unincorporated area of Clark County; (2) two members must reside in the largest incorporated city of the county (Las Vegas); and (3) one member must reside in each of the next four largest incorporated cities (Henderson, North Las Vegas, Mesquite and Boulder City).

Amendment adopted.

Senator Smith moved that Senate Bill No. 322 be re-referred to the Committee on Finance upon return from reprint.

Motion carried.

Bill ordered reprinted, engrossed and to the Committee on Finance.

Senate Bill No. 343.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 243.

"SUMMARY—Makes various changes relating to off-highway vehicles. (BDR 43-630)"

"AN ACT relating to motor vehicles; allowing certain off-highway vehicles to be registered as motor vehicles intended for use on a highway; requiring the owner of an off-highway vehicle registered as a motor vehicle intended for use on a highway to obtain and maintain insurance on the vehicle; allowing certain off-highway vehicles to be operated on certain county roads under certain circumstances; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, no off-highway vehicle may be registered for highway use or operated on a highway except in limited circumstances. (NRS 490.090, 490.100, 490.110) Any off-highway vehicle that is operated on a highway under these limited circumstances must be registered as an off highway vehicle and have certain required equipment. (NRS 490.120) Sections ~~2-6~~ 2-5 of this bill allow certain off-highway vehicles that are defined as "large all-terrain vehicles" to be registered as: ~~both~~ (1) motor vehicles intended for use on a highway; ~~and~~ or (2) off-highway vehicles. Section 5 requires the owner of a large all-terrain vehicle who registers the vehicle as a motor vehicle intended for use on a highway to provide proof that the owner carries insurance on the vehicle which meets the requirements for insurance on motor vehicles in this State generally. Section ~~7~~ 12 of this bill ~~exempts any owner~~ provides that the fee for registration of an off highway vehicle [who has paid a fee for the current and valid registration of that] is the same for all off-highway [vehicle] vehicles, regardless of whether the owner of a large all-terrain vehicle chooses to register the vehicle as a motor vehicle intended for use on a highway. [from paying the fee for the registration of an off highway vehicle.] Sections ~~3~~ 4 and ~~8~~ 13 of this bill allow ~~certain off-highway~~ large all-terrain vehicles to be operated on a general county road or minor county road, unless the applicable city or county prohibits such use, provided that such vehicles are registered with the Department of Motor Vehicles for on-road use and have the requisite equipment for on-road use. ~~Insurance is required for every motor vehicle that is registered in this State for operation on any highway in this State. (NRS 482.205, 485.185)~~ Section 10 of this bill requires that the registration sticker or decal of a large all-terrain vehicle registered as a motor vehicle intended for use on a highway be distinguishable from the sticker or decal of other off-highway vehicles. Section 14 of this bill provides that operating or

knowingly allowing the operation of a large all-terrain vehicle registered as a motor vehicle intended for use on a highway without having the required insurance is punishable as a misdemeanor and the imposition of a fine not to exceed \$100.

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

Section 1. NRS 484A.650 is hereby amended to read as follows:

484A.650 Whenever the driver of a vehicle is stopped by a peace officer for violating a provision of chapters 484A to 484E, inclusive, of NRS, except for violating a provision of NRS 484B.440 to 484B.523, inclusive, the officer shall demand proof of the insurance required by NRS 485.185, *or section 5 of this act*, and issue a citation as provided in NRS 484A.630 if the officer has probable cause to believe that the driver of the vehicle is in violation of NRS 485.187 ~~or~~ or subsection 4 of NRS 490.520. If the driver of the vehicle is not the owner, a citation must also be issued to the owner, and in such a case the driver:

1. May sign the citation on behalf of the owner; and
2. Shall notify the owner of the citation within 3 days after it is issued.

↪ The agency which employs the peace officer shall immediately forward a copy of the citation to the registered owner of the vehicle, by certified mail, at his or her address as it appears on the certificate of registration.

~~Section 1.~~ *Sec. 2.* Chapter 490 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~2, 3~~ 3, 4 and ~~4~~ 5 of this act.

~~Sec. 2.~~ *Sec. 3.* "Large all-terrain vehicle" means any all-terrain vehicle that includes seating capacity for at least two people abreast and:

1. Total seating capacity for at least four people; or
2. A truck bed.

~~Sec. 3.~~ *Sec. 4.* 1. Except as otherwise provided in subsection 2, a person may operate a large all-terrain vehicle on any portion of a highway that has been designated in accordance with NRS 403.170 as a general county road or minor county road if the large all-terrain vehicle:

- (a) Meets the requirements set forth in NRS 490.120; and
- (b) Is registered by the Department in accordance with ~~chapter 482 of NRS and~~ section ~~4~~ 5 of this act as a motor vehicle intended to be operated upon the highways of this State.

2. The governing body of a city or county within which is located a highway or portion of a highway that has been designated in accordance with NRS 403.170 as a general county road or minor county road may by ordinance or resolution prohibit the operation of large all-terrain vehicles on any portion of such a road.

~~Sec. 4.~~ *Sec. 5.* 1. Upon the request of an owner of a large all-terrain vehicle, the Department shall register the large all-terrain vehicle in accordance with chapter 482 of NRS unless expressly prohibited by federal law to operate on the roads specified in section 4 of this act.

2. The owner of a large all-terrain vehicle wishing to apply for registration or renewal of registration pursuant to this section must obtain and maintain insurance on the vehicle that meets the requirements of NRS 485.185.

3. If an owner of a large all-terrain vehicle applies to the Department for the registration of the vehicle pursuant to this section, the owner shall submit to the Department:

(a) The information required for registration pursuant to NRS 490.082;

(b) The fee for registration required pursuant to NRS 490.084;

(c) Proof satisfactory to the Department that the applicant carries insurance on the vehicle provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State which meets the requirements of NRS 485.185; and

(d) A declaration signed by the applicant that he or she will maintain the insurance required by this section during the period of registration.

~~Sec. 5.~~ Sec. 6. NRS 490.010 is hereby amended to read as follows:

490.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 490.020 to 490.062, inclusive, and section ~~47~~ 3 of this act have the meanings ascribed to them in those sections.

~~Sec. 6.~~ Sec. 7. NRS 490.060 is hereby amended to read as follows:

490.060 1. "Off-highway vehicle" means a motor vehicle that is designed primarily for off-highway and all-terrain use. The term includes, but is not limited to:

(a) An all-terrain vehicle ~~;~~ , including, without limitation, a large all terrain vehicle without regard to whether that large all-terrain vehicle is registered by the Department in accordance with ~~chapter 482 of NRS and~~ section ~~47~~ 5 of this act as a motor vehicle intended to be operated upon the highways of this State;

(b) An all-terrain motorcycle;

(c) A dune buggy;

(d) A snowmobile; and

(e) Any motor vehicle used on public lands for the purpose of recreation.

2. The term does not include:

(a) A motor vehicle designed primarily for use in water;

(b) ~~A~~ ~~Except as otherwise provided in paragraph (a) of subsection 1, a~~ motor vehicle that is registered by the Department ~~;~~ in accordance with chapter 482 of NRS ~~; and section 4 of this act as a motor vehicle intended to be operated upon the highways of this State.~~

(c) A low-speed vehicle as defined in NRS 484B.637; or

(d) Special mobile equipment, as defined in NRS 482.123.

Sec. 8. NRS 490.070 is hereby amended to read as follows:

490.070 1. Upon the request of an off-highway vehicle dealer, the Department may authorize the off-highway vehicle dealer to receive and submit to the Department applications for the:

(a) Issuance of certificates of title and registration for off-highway vehicles; and

(b) Renewal of registration for off-highway vehicles.

2. An authorized dealer shall:

(a) Except as otherwise provided in paragraph (b) and subsection 4, submit to the State Treasurer for allocation to the Department or to the Fund all fees collected by the authorized dealer from each applicant and properly account for those fees each month;

(b) Submit to the State Treasurer for deposit into the Fund all fees charged and collected and required to be deposited in the Fund pursuant to NRS 490.084;

(c) Comply with the regulations adopted pursuant to subsection 5; and

(d) Bear any cost of equipment which is required to receive and submit to the Department the applications described in subsection 1, including any computer software or hardware.

3. Except as otherwise provided in subsection 4, an authorized dealer is not entitled to receive compensation for the performance of any services pursuant to this section.

4. An authorized dealer may charge and collect a fee of not more than \$2 for each application for a certificate of title or registration received by the authorized dealer pursuant to this section. An authorized dealer may retain any fee collected by the authorized dealer pursuant to this subsection.

5. The Department shall adopt regulations to carry out the provisions of this section. The regulations must include, without limitation, provisions for:

(a) The expedient and secure issuance of:

(1) Forms for applying for the issuance of certificates of title for, or registration of, off-highway vehicles;

(2) Certificates of title and registration by the Department to each applicant whose application is approved by the Department; and

(3) Renewal notices for registrations before the date of expiration of the registrations;

(b) The renewal of registrations by mail or the Internet;

(c) The collection of a fee of not less than \$20 or more than \$30 for the renewal of a registration of an off-highway vehicle ~~+~~ pursuant to NRS 490.082 or section 5 of this act;

(d) The submission by mail or electronic transmission to the Department of an application for:

(1) The issuance of a certificate of title for, or registration of, an off highway vehicle; or

(2) The renewal of registration of an off-highway vehicle;

(e) The replacement of a lost, damaged or destroyed certificate of title or registration certificate, sticker or decal; and

(f) The revocation of the authorization granted to a dealer pursuant to subsection 1 if the authorized dealer fails to comply with the regulations.

Sec. 9. NRS 490.082 is hereby amended to read as follows:

490.082 1. An owner of an off-highway vehicle that is acquired:

(a) Before the effective date of this section:

(1) May apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, shall, within 1 year after the effective date of this section, apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, the registration of the off-highway vehicle.

(b) On or after the effective date of this section, shall, within 30 days after acquiring ownership of the off-highway vehicle:

(1) Apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, the registration of the off-highway vehicle ~~[]~~ pursuant to this section or section 5 of this act.

2. If an owner of an off-highway vehicle applies to the Department or to an authorized dealer for:

(a) A certificate of title for the off-highway vehicle, the owner shall submit to the Department or to the authorized dealer proof prescribed by the Department that he or she is the owner of the off-highway vehicle.

(b) ~~The~~ Except as otherwise provided in section 5 of this act, the registration of the off-highway vehicle, the owner shall submit:

(1) If ownership of the off-highway vehicle was obtained before the effective date of this section, proof prescribed by the Department:

(I) That he or she is the owner of the off-highway vehicle; and

(II) Of the unique vehicle identification number, serial number or distinguishing number obtained pursuant to NRS 490.0835 for the off highway vehicle; or

(2) If ownership of the off-highway vehicle was obtained on or after the effective date of this section:

(I) Evidence satisfactory to the Department that he or she has paid all taxes applicable in this State relating to the purchase of the off-highway vehicle, or submit an affidavit indicating that he or she purchased the vehicle through a private party sale and no tax is due relating to the purchase of the off-highway vehicle; and

(II) Proof prescribed by the Department that he or she is the owner of the off-highway vehicle and of the unique vehicle identification number, serial number or distinguishing number obtained pursuant to NRS 490.0835 for the off-highway vehicle.

3. Registration of an off-highway vehicle is not required if the off highway vehicle:

(a) Is owned and operated by:

(1) A federal agency;

- (2) An agency of this State; or
- (3) A county, incorporated city or unincorporated town in this State;
- (b) Is part of the inventory of a dealer of off-highway vehicles;
- (c) Is registered or certified in another state and is located in this State for not more than 60 days;
- (d) Is used solely for husbandry on private land or on public land that is leased to or used under a permit issued to the owner or operator of the off highway vehicle;
- (e) Is used for work conducted by or at the direction of a public or private utility; or
- (f) Was manufactured before January 1, 1976.

4. The registration of an off-highway vehicle *pursuant to this section or section 5 of this act* expires 1 year after its issuance. If an owner of an off highway vehicle fails to renew the registration of the off-highway vehicle before it expires, the registration may be reinstated upon the payment to the Department of the annual renewal fee, ~~and~~ a late fee of \$25 ~~and, if applicable, proof of insurance required pursuant to section 5 of this act.~~ Any late fee collected by the Department must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off Highway Vehicle Titling and Registration created by NRS 490.085.

5. If a certificate of title or registration for an off-highway vehicle is lost or destroyed, the owner of the off-highway vehicle may apply to the Department by mail, or to an authorized dealer, for a duplicate certificate of title or registration. The Department may collect a fee to replace a certificate of title or registration certificate, sticker or decal that is lost, damaged or destroyed. Any such fee collected by the Department must be:

- (a) Set forth by the Department by regulation; and
- (b) Deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

6. The provisions of subsections 1 to 5, inclusive, do not apply to an owner of an off-highway vehicle who is not a resident of this State.

Sec. 10. NRS 490.083 is hereby amended to read as follows:

490.083 1. Each registration of an off-highway vehicle must:

~~1.~~ (a) Be in the form of a sticker or decal, as prescribed by the Department.

~~2.~~ (b) Be approximately the size of a license plate for a motorcycle, as set forth by the Department.

~~3.~~ (c) Include the unique vehicle identification number, serial number or distinguishing number obtained pursuant to NRS 490.0835 for the off highway vehicle.

~~4.~~ (d) Be displayed on the off-highway vehicle in the manner set forth by the Commission.

2. The registration sticker or decal of a large all-terrain vehicle registered pursuant to section 5 of this act must be distinguishable from the

sticker or decal of an off-highway vehicle registered pursuant to NRS 490.082 in a manner to be determined by the Department.

Sec. 11. NRS 490.0835 is hereby amended to read as follows:

490.0835 1. The Department may assign a distinguishing number to any off-highway vehicle if:

(a) The off-highway vehicle does not have a unique vehicle identification number or serial number provided by the manufacturer of the vehicle;

(b) The unique vehicle identification number or serial number provided by the manufacturer of the off-highway vehicle has been removed, defaced, altered or obliterated; or

(c) The off-highway vehicle is homemade.

2. Any off-highway vehicle to which there is assigned a distinguishing number pursuant to subsection 1 must be registered, if required pursuant to NRS 490.082, under the distinguishing number.

3. The Department shall collect a fee of \$2 for the assignment and recording of each such distinguishing number.

4. The number by which an off-highway vehicle is registered pursuant to NRS 490.082 or section 5 of this act must be permanently stamped or attached to the vehicle. False attachment or willful removal, defacement, alteration or obliteration of such a number with intent to defraud is a gross misdemeanor.

~~{Sec. 7.}~~ Sec. 12. NRS 490.084 is hereby amended to read as follows:

490.084 1. The Department shall determine the fee for issuing a certificate of title for an off-highway vehicle, but such fee must not exceed the fee imposed for issuing a certificate of title pursuant to NRS 482.429. Money received from the payment of the fees described in this subsection must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

2. The Commission shall determine the fee for the annual registration of an off-highway vehicle ~~{ }~~ pursuant to NRS 490.082 or section 5 of this act, but such fee must not be less than \$20 or more than \$30. Money received from the payment of the fees described in this subsection must be distributed as follows:

(a) During the period beginning on July 1, 2012, and ending on June 30, 2013:

(1) Eighty-five percent must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

(2) To the extent that any portion of the fee for registration is not for the operation of the off-highway vehicle on a highway, 15 percent must be deposited into the Fund.

(b) On or after July 1, 2013:

(1) Fifteen percent must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

(2) To the extent that any portion of the fee for registration is not for the operation of the off-highway vehicle on a highway, 85 percent must be deposited into the Fund.

~~f 3. Any owner of a large all-terrain vehicle who has paid a fee for the registration of the large all-terrain vehicle in accordance with chapter 482 of NRS and section 4 of this act as a motor vehicle intended to be operated upon the highways of this State is, provided that such registration is current and valid, exempt from paying the fee required by subsection 2 with respect to that large all-terrain vehicle.~~

~~[Sec. 8.]~~ Sec. 13. NRS 490.110 is hereby amended to read as follows:

490.110 1. Except as otherwise provided in subsection 2, if an off-highway vehicle meets the requirements of this chapter and the operator holds a valid driver's license and operates the off-highway vehicle in accordance with the requirements of those sections, the off-highway vehicle may be operated on a highway in accordance with NRS 490.090 to 490.130, inclusive ~~[,]~~, and section ~~3~~ 4 of this act.

2. An off-highway vehicle may not be operated pursuant to this section:

- (a) On an interstate highway;
- (b) On a paved highway in this State for more than 2 miles; ~~[or]~~
- (c) Unless the highway is specifically designated for use by off-highway vehicles in a city whose population is 100,000 or more ~~[,]~~; or
- (d) Unless it is a large all-terrain vehicle registered pursuant to section 5 of this act and being operated in accordance with section ~~3~~ 4 of this act.

Sec. 14. NRS 490.520 is hereby amended to read as follows:

490.520 1. It is a gross misdemeanor for any person knowingly to falsify:

- (a) An off-highway vehicle dealer's report of sale, as described in NRS 490.440; or
- (b) An application or document to obtain any license, permit, certificate of title or registration issued under the provisions of this chapter.

2. Except as otherwise provided in ~~[subsection]~~ subsections 3 ~~[,]~~ and 4, it is a misdemeanor for any person to violate any of the provisions of this chapter unless the violation is by this section or other provision of this chapter or other law of this State declared to be a gross misdemeanor or a felony.

3. ~~[Any]~~ Except as otherwise provided in subsection 4, a person who violates a provision of this chapter relating to the registration or operation of an off-highway vehicle is guilty of a misdemeanor and shall be punished by a fine not to exceed \$100.

4. Any person who registers a large all-terrain vehicle pursuant to section 5 of this act and who:

(a) Operates or knowingly permits the operation of the vehicle without having insurance as required by section 5 of this act;

(b) Operates or knowingly permits the operation of the vehicle without having evidence of insurance of the vehicle in the possession of the operator of the vehicle; or

(c) Fails or refuses to surrender, upon demand, to a peace officer or to an authorized representative of the Department the evidence of insurance,

↪ is guilty of a misdemeanor and shall be punished by a fine not to exceed \$100.

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

Thank you, Mr. President. Amendment No. 243 to Senate Bill No. 343 proposes a new registration sticker or decal distinguishable from the sticker or decal of a regular off-highway vehicle. Under the new designation, the owner of a large all-terrain vehicle must provide proof of insurance that meets the requirements of insurance on an automobile. Additionally, the owner of a large all-terrain vehicle can either register as a standard off-highway vehicle, as currently required, or they can choose the new designation, which allows them to go on certain roads designated by a city or county.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 381.

Bill read second time.

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

Amendment No. 357.

"SUMMARY—Makes various changes to prevent recipients of certain public assistance from using benefits ~~[for certain purposes.]~~ in certain businesses. (BDR 38-459)"

"AN ACT relating to public welfare; prohibiting recipients of certain public assistance from using benefits received ~~[for certain purposes; requiring]~~ in certain businesses and in certain manners; [to take certain measures to prevent such recipients of certain public assistance from using their benefits for those prohibited purposes; providing for the suspension of the license of a business that does not take those measures;] and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Federal law requires states participating in the program to provide Temporary Assistance to Needy Families to maintain policies and practices as necessary to prevent benefits provided to recipients of aid pursuant to the program from using those benefits in: (1) a liquor store; (2) a casino or gaming establishment; or (3) a strip club. (42 U.S.C. § 608(a)(12)) Existing law requires the Division of Welfare and Supportive Services of the Department of Health and Human Services to establish a written plan for personal responsibility for a household receiving benefits pursuant to the program for Temporary Assistance to Needy Families. (NRS 422A.535)

Section 1 of this bill requires any written plan for personal responsibility to prohibit recipients from using benefits ~~for gaming or pari-mutuel wagering, to obtain the services of a prostitute, to purchase tobacco, alcohol, tattooing or body piercing, a bail bond, adult entertainment or lottery tickets, or for any illegal purpose.~~ in a business or in a manner that federal law requires the State to prohibit. Section 1 also prohibits a person from knowingly accepting a public assistance electronic benefit transfer card, which is a card issued by the Division to a recipient of benefits pursuant to the program to allow the recipient to access and process transactions using his or her benefits, for ~~an~~ unauthorized purpose.

~~Sections 2-8 of this bill require the proprietors and employees of certain businesses that sell alcohol or bail bonds or are in the business of gaming to prevent the use of a public assistance electronic benefit transfer card for a prohibited purpose. Those sections further require those businesses to report to the Division any attempt by a person to use public assistance benefits for a prohibited purpose. Those businesses are also required to disable the ability of any point-of-sale terminal or automated teller on the premises of the business to accept a public assistance electronic benefit transfer card issued pursuant to the program for Temporary Assistance to Needy Families. The Division is required to notify the licensing authority for those businesses if they fail to comply with these requirements and the licensing authority for those businesses is required to immediately suspend the license of such a business that fails to meet the requirements.~~ use in such a business.

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

Section 1. NRS 422A.535 is hereby amended to read as follows:

422A.535 1. The Division shall, with the participation of the head of a household who is applying for benefits, establish a written plan for personal responsibility for the household. The plan for personal responsibility must be based on the assessment made pursuant to NRS 422A.530 and 42 U.S.C. § 608.

2. In addition to the requirements set forth in 42 U.S.C. § 608, the plan required pursuant to subsection 1 must:

(a) Identify the role of each member of the household and the obligations of each member pursuant to the plan;

(b) Be signed by the head of the household within 60 days after the head of household is determined to be eligible for benefits; and

(c) Specify a date, not later than 24 months after the date the plan becomes effective, upon which the plan will expire.

3. *The plan required pursuant to subsection 1 must prohibit any benefits from being used by any person in the household who is subject to the plan:*

~~(a) For gaming for gambling, as defined in NRS 463.0153;~~

~~(b) For pari-mutuel wagering, as authorized by chapter 464 of NRS;~~

~~(c) To obtain the services of a prostitute;~~

~~(d) To purchase;~~

~~(1) Tobacco or any product containing tobacco;~~
~~(2) Any alcoholic beverage;~~
~~(3) Tattooing or body piercing;~~
~~(4) A bail bond;~~
~~(5) Any form of entertainment which seeks to arouse or excite the sexual desires of a person, including pornography; or~~
~~(6) Tickets or shares in any lottery; and~~
~~(e) For any illegal purpose.~~ purposes in a casino, gambling casino or gaming establishment;

(b) In a liquor store;

(c) In a retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment;

(d) In any other place where the State is required to prohibit the use of such benefits by the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112-96, and any regulations adopted pursuant thereto; or

(e) In any other manner that the State is required to prohibit by the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112-96, and any regulations adopted pursuant thereto.

4. A person shall not knowingly accept a public assistance electronic benefit transfer card for ~~any prohibited~~ use in any place or manner listed in subsection 3.

5. A recipient who attempts to use benefits or uses benefits ~~for~~ in any prohibited purpose ~~place or manner listed in subsection 3 shall be deemed to have failed to comply with the plan established pursuant to subsection 1.~~

6. The Division shall periodically review the plan required pursuant to subsection 1 to determine whether the needs of the household have changed. The Division may, with the participation of the head of the household, amend the plan as it deems appropriate.

~~4.~~ 7. If a member of the household is an unmarried parent who is less than 18 years of age, the plan required pursuant to subsection 1 must include a provision which:

(a) Requires the head of the household to ensure that the unmarried parent attends training to learn the skills necessary to care for the child; and

(b) Encourages the head of the household to ensure that the unmarried parent participates in a program which provides mentors for unmarried parents who are less than 18 years of age.

8. As used in this section, ~~"public"~~ :

(a) "Casino, gambling casino or gaming establishment" means any business operating under a nonrestricted gaming license, as defined in NRS 463.0177, or a restricted gaming license, as defined in NRS 463.0189, but excludes any business excluded from the term in 42 U.S.C. 608(a)(12)(B)(ii).

(b) "Liquor store" has the meaning ascribed to it in 42 U.S.C. § 608(a)(12)(B)(i).

(c) "Public assistance electronic benefit transfer card" means a plastic card or any other access device issued by the Division to a recipient of benefits that enables the recipient to have access to and process transactions involving benefits.

~~Sec. 2. [Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. A licensee or an employee of a licensee shall not knowingly allow a person to use a public assistance electronic benefit transfer card to purchase an alcoholic beverage at the place of business of the licensee.~~

~~2. If a person attempts to use his or her public assistance electronic benefit transfer card to purchase an alcoholic beverage at the place of business of a licensee, the licensee shall report that attempt to the Division.~~

~~3. A licensee shall disable the ability of any point of sale terminal or automated teller located on the premises of his or her business to accept a public assistance electronic benefit transfer card.~~

~~4. The Division shall notify the liquor board that issued the license to a licensee of any failure of the licensee or his or her employees to comply with any provision of this section.~~

~~5. The liquor board shall suspend the license of the licensee upon receiving notification from the Division or otherwise determining that the licensee has failed to comply with any provision of this section. If the licensee remains otherwise eligible to be licensed, the liquor board may reinstate the license.~~

~~(a) If the licensee is found to have violated the provisions of subsection 1 or 2, when the licensee shows that he or she has taken appropriate measures to prevent future violations; or~~

~~(b) If the licensee is found to have violated the provisions of subsection 3, when the licensee demonstrates compliance with subsection 3.~~

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

~~(a) "Automated teller" has the meaning ascribed to it in NRS 354.780.~~

~~(b) "Division" means the Division of Welfare and Supportive Services of the Department of Health and Human Services.~~

~~(c) "Licensee" means a person who holds a liquor license issued pursuant to NRS 244.350.~~

~~(d) "Point of sale terminal" means an information processing device or machine located on the premises of a business:~~

~~(1) Through which transaction messages are initiated and electronically transmitted to an acquirer to effectuate a purchase or cash advance; and~~

~~(2) Which accepts debit cards, credit cards or public assistance electronic benefit transfer cards.~~

~~(e) "Public assistance electronic benefit transfer card" has the meaning ascribed to it in NRS 422A.535.] (Deleted by amendment.)~~

~~Sec. 3. [NRS 244.3525 is hereby amended to read as follows:~~

~~244.3525 1. The chair or clerk of the board of county commissioners to enforce NRS 244.331 to 244.3345, inclusive, and 244.335 to 244.340, inclusive, the chair or clerk of the license board of the county to enforce NRS 244.345 and the chair or clerk of the liquor board of the county to enforce NRS 244.350, 244.3501 and 244.351 and section 2 of this act may:~~

~~(a) Administer oaths and require testimony under oath;
(b) Pay witnesses a reasonable allowance for travel and subsistence; and
(c) Appoint hearing officers who may administer oaths and receive testimony given under oath.~~

~~2. Each hearing officer appointed pursuant to paragraph (c) of subsection 1 must be a resident of this State who is a graduate of:~~

~~(a) An accredited law school; or
(b) An accredited 4 year college and has at least 5 years' experience in public administration;~~

~~and who has completed a course of instruction in administrative law, relating to the provisions of this chapter, offered by the office of the district attorney for the county. This course must consist of at least 4 hours of instruction in a classroom.~~

~~3. Any notice given by the board must be served in the manner required for civil actions. (Deleted by amendment.)~~

Sec. 4. ~~{Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. A licensee or an employee of a licensee shall not knowingly allow a person to use a public assistance electronic benefit transfer card to purchase an alcoholic beverage at the place of business of the licensee.~~

~~2. If a person attempts to use his or her public assistance electronic benefit transfer card to purchase an alcoholic beverage at the place of business of a licensee, the licensee shall report that attempt to the Division.~~

~~3. A licensee shall disable the ability of any point of sale terminal or automated teller machine located on the premises of his or her business to accept a public assistance electronic benefit transfer card.~~

~~4. The Division shall notify the licensing authority of the incorporated city that issued the license to a licensee of any failure of the licensee or his or her employees to comply with any provision of this section.~~

~~5. The licensing authority shall suspend the license of the licensee upon receiving notification from the Division or otherwise determining that the licensee has failed to comply with any provision of this section. If the licensee remains otherwise eligible to be licensed, the licensing authority may reinstate the license:~~

~~(a) If the licensee is found to have violated the provisions of subsection 1 or 2, when the licensee shows that he or she has taken appropriate measures to prevent future violations; or~~

~~(b) If the licensee is found to have violated the provisions of subsection 3, when the licensee demonstrates compliance with subsection 3.~~

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

~~(a) "Automated teller" has the meaning ascribed to it in NRS 354.780.~~

~~(b) "Division" means the Division of Welfare and Supportive Services of the Department of Health and Human Services.~~

~~(c) "Licensee" means a person who holds a liquor license issued pursuant to NRS 268.090.~~

~~(d) "Point of sale terminal" means an information processing device or machine located on the premises of a business:~~

~~(1) Through which transaction messages are initiated and electronically transmitted to an acquirer to effectuate a purchase or cash advance; and~~

~~(2) Which accepts debit cards, credit cards or public assistance electronic benefit transfer cards.~~

~~(e) "Public assistance electronic benefit transfer card" has the meaning ascribed to it in NRS 422A.535. (Deleted by amendment.)~~

Sec. 5. ~~[Chapter 463 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. A licensee or an employee of a licensee shall not knowingly allow a person to use a public assistance electronic benefit transfer card for gaming at the place of business of the licensee.~~

~~2. If a person attempts to use his or her public assistance electronic benefit transfer card for gaming at the place of business of a licensee, the licensee shall report that attempt to the Division.~~

~~3. A licensee shall disable the ability of any point of sale terminal or automated teller machine located on the premises of his or her business to accept a public assistance electronic benefit transfer card.~~

~~4. The Division shall notify the Commission of any failure of the licensee or his or her employees to comply with any provision of this section.~~

~~5. The Commission shall issue an emergency suspension of the license of the licensee upon receiving notification from the Division or otherwise determining that the licensee has failed to comply with any provision of this section. If the licensee remains otherwise eligible to be licensed, the Commission may reinstate the license:~~

~~(a) If the licensee is found to have violated the provisions of subsection 1 or 2, when the licensee shows that he or she has taken appropriate measures to prevent future violations; or~~

~~(b) If the licensee is found to have violated the provisions of subsection 3, when the licensee demonstrates compliance with subsection 3.~~

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

~~(a) "Automated teller" has the meaning ascribed to it in NRS 354.780.~~

~~(b) "Division" means the Division of Welfare and Supportive Services of the Department of Health and Human Services.~~

~~(c) "Licensee" means a person who holds a nonrestricted license, as defined in NRS 463.0177.~~

~~(d) "Point of sale terminal" means an information processing device or machine located on the premises of a business:~~

~~(1) Through which transaction messages are initiated and electronically transmitted to an acquirer to effectuate a purchase or cash advance; and~~

~~(2) Which accepts debit cards, credit cards or public assistance electronic benefit transfer cards.~~

~~(c) "Public assistance electronic benefit transfer card" has the meaning ascribed to it in NRS 422A.535.~~ (Deleted by amendment.)

Sec. 6. ~~NRS 463.311 is hereby amended to read as follows:~~

~~463.311 The Commission may issue an emergency order for suspension, limitation or conditioning of a license, registration, finding of suitability, pari-mutuel license or prior approval, or may issue an emergency order requiring a licensed gaming establishment to keep an individual licensee from the premises of the licensed gaming establishment or not to pay such licensee any remuneration for services or any profits, income or accruals on the investment of the licensee in the licensed gaming establishment in the following manner:~~

~~1. [An] Except as otherwise provided in section 5 of this act, an emergency order may be issued only when the Commission believes that:~~

~~(a) There has been a violation of subsection 2 of NRS 463.360 or NRS 465.083;~~

~~(b) Such action is necessary to prevent a violation of NRS 465.083;~~

~~(c) There has been a violation of subsection 1 of NRS 463.160; or~~

~~(d) Such action is necessary for the immediate preservation of the public peace, health, safety, morals, good order or general welfare.~~

~~2. The emergency order must set forth the grounds upon which it is issued, including a statement of facts constituting the alleged emergency necessitating such action.~~

~~3. An emergency order may be issued only with the approval of and upon signature by not less than three members of the Commission.~~

~~4. The emergency order is effective immediately upon issuance and service upon the licensee or registered agent of the licensee or, in cases involving registrations, findings of suitability, pari-mutuel licenses or any prior approval, upon issuance and service upon the person or entity involved or registered agent of the entity involved. The emergency order may suspend, limit, condition or take other action in relation to the license of one or more persons in an operation without affecting other individual licensees or the licensed gaming establishment. The emergency order remains effective until further order of the Commission or final disposition of the case.~~

~~5. Within 5 days after issuance of an emergency order, the Commission shall cause a complaint to be filed and served upon the person or entity involved in accordance with the provisions of NRS 463.312.~~

~~6. Thereafter, the person or entity against whom the emergency order has been issued and served is entitled to a hearing before the Commission in accordance with NRS 463.312 to 463.3145, inclusive, and to judicial review~~

~~of the decision and order of the Commission thereon in accordance with NRS 463.315 to 463.318, inclusive.] (Deleted by amendment.)~~

Sec. 7. ~~[NRS 463.482 is hereby amended to read as follows:~~

~~463.482 As used in NRS 463.160 to 463.170, inclusive, and section 5 of this act, 463.368, 463.386, 463.482 to 463.645, inclusive, and 463.750, unless the context otherwise requires, the words and terms defined in NRS 463.4825 to 463.488, inclusive, have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 8. ~~[Chapter 697 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. A bail agent or an employee of a bail agent shall not knowingly allow a person to use a public assistance electronic benefit transfer card to purchase a bail bond at the place of business of the licensee.~~

~~2. If a person attempts to use his or her public assistance electronic benefit transfer card to purchase a bail bond at the place of business of a bail agent, the bail agent shall report that attempt to the Division.~~

~~3. A bail agent shall disable the ability of any point-of-sale terminal or automated teller located on the premises of his or her business to accept a public assistance electronic benefit transfer card.~~

~~4. The Division shall notify the Commissioner of any failure of the licensee or his or her employees to comply with any provision of this section.~~

~~5. The Commissioner shall suspend the license of the bail agent upon receiving notification from the Division or otherwise determining that the licensee has failed to comply with any provision of this section. If the bail agent remains otherwise eligible to be licensed, the Commissioner may reinstate the license.~~

~~(a) If the bail agent is found to have violated the provisions of subsection 1 or 2, when the bail agent shows that he or she has taken appropriate measures to prevent future violations; or~~

~~(b) If the bail agent is found to have violated the provisions of subsection 3, when the licensee demonstrates compliance with subsection 3.~~

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

~~(a) "Automated teller" has the meaning ascribed to it in NRS 354.780.~~

~~(b) "Division" means the Division of Welfare and Supportive Services of the Department of Health and Human Services.~~

~~(c) "Point-of-sale terminal" means an information processing device or machine located on the premises of a business:~~

~~(1) Through which transaction messages are initiated and electronically transmitted to an acquirer to effectuate a purchase or cash advance; and~~

~~(2) Which accepts debit cards, credit cards or public assistance electronic benefit transfer cards.~~

~~(d) "Public assistance electronic benefit transfer card" has the meaning ascribed to it in NRS 422A.535.] (Deleted by amendment.)~~

Sec. 9. On or before February 1, 2015, the Director of the Department of Health and Human Services shall submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report regarding measures taken by the Department to comply with section 4004 of the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112-96, and any regulations adopted pursuant thereto. The report must include, without limitation, any recommendations for legislation that is necessary to comply with section 4004 of the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112-96, and any regulations adopted pursuant thereto.

~~{Sec. 9.}~~ *Sec. 10.* This act becomes effective on July 1, 2013.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 357 to Senate Bill No. 381 limits the proposed statutory changes to only those that are required by federal law. It requires a written plan for personal responsibility to prohibit Temporary Cash Assistance for Needy Families recipients from using benefits at: (1) non-restricted gaming operations or any establishment where gaming is the principal purpose of the business; (2) a liquor store; (3) a retail establishment in which performers disrobe or perform unclothed for entertainment; and (4) in any other place or manner prohibited by the Middle Class Tax Relief and Job Creation Act of 2012 and any subsequent regulations. The amendment also prohibits such businesses from knowingly accepting public assistance benefits from its patrons.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 428.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 411.

"SUMMARY—Revises provisions relating to tow cars. (BDR 58-1074)"

"AN ACT relating to tow cars; requiring operators of tow cars to accept certain forms of payment; ~~{authorizing the Nevada Transportation Authority to investigate, suspend, revise or revoke certain rates relating to nonconsensual towing,}~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law governs the authority of the Nevada Transportation Authority to set the rate for services provided by operators of tow cars. (NRS 706.445 706.451) Section 2 of this bill provides that operators of tow cars are required to accept cash, money order, credit card or debit card or any other electronic transfer of money as payment for towing services. Section 3 of this bill authorizes an operator of a tow car to enter into a contract with an issuer of credit cards or debit cards to provide for the acceptance of such cards by the operator of a tow car for the payment of rates, taxes and charges. Section 3 also authorizes the Authority to prescribe by regulation or order the

maximum fee that an operator of a tow car may charge a customer for using a credit card or debit card to make payment.

~~Existing law limits the power of the Authority to investigate, suspend, revise or revoke any rate that is subject to the approval of the Authority. (NRS 706.323) Section 6 of this bill provides that such limitations do not apply to any rate for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle.~~

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *An operator of a tow car shall accept cash, money order, credit card or debit card or any other electronic transfer of money as payment for towing services. As used in this section "electronic transfer of money" has the meaning ascribed to it in NRS 463.01473.*

Sec. 3. 1. *An operator of a tow car may enter into a contract with an issuer of credit cards or debit cards to provide for the acceptance of credit cards or debit cards by the operator of a tow car for the payment of rates, fares and charges owed to the operator of a tow car.*

2. *The Authority may prescribe by regulation or order the maximum fee that an operator of a tow car may charge a customer for the convenience of using a credit card or debit card to make payment to the operator of a tow car. In prescribing such fees, the Authority may consider the expenses incurred by the operator of a tow car in accepting payment by a credit card or debit card, including, without limitation:*

(a) Costs of required equipment and its installation;

(b) Administrative costs of processing credit card or debit card transactions; and

(c) Fees paid to issuers of credit cards or debit cards.

3. *An issuer shall not, by contract or otherwise:*

(a) Prohibit an operator of a tow car from charging and collecting a fee authorized pursuant to subsection 2; or

(b) Require an operator of a tow car to waive the right to charge and collect a fee authorized pursuant to subsection 2.

4. *As used in this section, "issuer" means a business organization, financial institution or a duly authorized agency of a business organization or financial institution which:*

(a) Issues a credit card or debit card; or

(b) Enters into a contract with an operator of a tow car or other person to enable or facilitate the acceptance of a credit card or debit card.

Sec. 4. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, and sections 2 and 3 of this act, unless the context otherwise requires, the words

and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NRS 706.286 is hereby amended to read as follows:

706.286 1. When a complaint is made against any fully regulated carrier or operator of a tow car by any person, that:

(a) Any of the rates, tolls, charges or schedules, or any joint rate or rates assessed by any fully regulated carrier or by any operator of a tow car for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle are in any respect unreasonable or unjustly discriminatory;

(b) Any of the provisions of NRS 706.445 to 706.453, inclusive, *and sections 2 and 3 of this act* have been violated;

(c) Any regulation, measurement, practice or act directly relating to the transportation of persons or property, including the handling and storage of that property, is, in any respect, unreasonable, insufficient or unjustly discriminatory; or

(d) Any service is inadequate,

↳ the Authority shall investigate the complaint. After receiving the complaint, the Authority shall give a copy of it to the carrier or operator of a tow car against whom the complaint is made. Within a reasonable time thereafter, the carrier or operator of a tow car shall provide the Authority with its written response to the complaint according to the regulations of the Authority.

2. If the Authority determines that probable cause exists for the complaint, it shall order a hearing thereof, give notice of the hearing and conduct the hearing as it would any other hearing.

3. No order affecting a rate, toll, charge, schedule, regulation, measurement, practice or act complained of may be entered without a formal hearing unless the hearing is dispensed with as provided in NRS 706.2865.

Sec. 6. ~~NRS 706.323 is hereby amended to read as follows:~~

~~706.323 1. Except as otherwise provided in subsection 2, the Authority may not investigate, suspend, revise or revoke any rate that is subject to the approval of the Authority pursuant to NRS 706.321 and proposed by a common motor carrier or contract motor carrier because the rate is too high or too low and therefore unreasonable if:~~

~~(a) The motor carrier notifies the Authority that it wishes to have the rate reviewed by the Authority pursuant to this subsection; and~~

~~(b) The rate resulting from all increases or decreases within 1 year is not more than 10 percent above or 10 percent below the rate in effect 1 year before the effective date of the proposed rate.~~

~~2. This section does not limit the authority of the Authority to investigate, suspend, revise or revoke a proposed rate if the rate would [violate]:~~

~~(a) Violate the provisions of NRS 706.151 [.]; or~~

~~(b) Increase the rates charged or to be charged for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle.~~ (Deleted by amendment.)

Sec. 7. NRS 706.4463 is hereby amended to read as follows:

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

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

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

(c) Comply with the provisions of NRS 706.011 to 706.791, inclusive ~~[]~~, and sections 2 and 3 of this act.

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

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

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

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

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

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

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

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

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

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

Sec. 7.5. NRS 706.4479 is hereby amended to read as follows:

706.4479 1. If a motor vehicle is towed at the request of someone other than the owner, or authorized agent of the owner, of the motor vehicle, the

operator of the tow car shall, in addition to the requirements set forth in the provisions of chapter 108 of NRS:

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

- (1) Of the location where the motor vehicle is being stored;
- (2) Whether the storage is inside a locked building, in a secured, fenced area or in an unsecured, open area;
- (3) Of the charge for towing and storage;
- (4) Of the date and time the vehicle was placed in storage;
- (5) Of the actions that the registered and legal owner of the vehicle may take to recover the vehicle while incurring the lowest possible liability in accrued assessments, fees, penalties or other charges; and
- (6) Of the opportunity to rebut the presumptions set forth in NRS 487.220 and 706.4477.

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

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

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

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

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

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

3. If a motor vehicle that is placed in storage was towed at the request of a law enforcement officer following an accident involving the motor vehicle ~~is~~ or after having been stolen and subsequently recovered, the operator shall not:

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

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

Sec. 8. NRS 706.4483 is hereby amended to read as follows:

706.4483 1. The Authority shall act upon complaints regarding the failure of an operator of a tow car to comply with the provisions of NRS 706.011 to 706.791, inclusive ~~+~~, and sections 2 and 3 of this act.

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

Sec. 9. NRS 706.453 is hereby amended to read as follows:

706.453 The provisions of NRS 706.445 to 706.451, inclusive, and sections 2 and 3 of this act do not apply to automobile wreckers who are licensed pursuant to chapter 487 of NRS.

Sec. 10. NRS 706.736 is hereby amended to read as follows:

706.736 1. Except as otherwise provided in subsection 2, the provisions of NRS 706.011 to 706.791, inclusive, and sections 2 and 3 of this act do not apply to:

(a) The transportation by a contractor licensed by the State Contractors' Board of the contractor's own equipment in the contractor's own vehicles from job to job.

(b) Any person engaged in transporting the person's own personal effects in the person's own vehicle, but the provisions of this subsection do not apply to any person engaged in transportation by vehicle of property sold or to be sold, or used by the person in the furtherance of any commercial enterprise other than as provided in paragraph (d), or to the carriage of any property for compensation.

(c) Special mobile equipment.

(d) The vehicle of any person, when that vehicle is being used in the production of motion pictures, including films to be shown in theaters and on television, industrial training and educational films, commercials for television and video discs and tapes.

(e) A private motor carrier of property which is used for any convention, show, exhibition, sporting event, carnival, circus or organized recreational activity.

(f) A private motor carrier of property which is used to attend livestock shows and sales.

(g) The transportation by a private school of persons or property in connection with the operation of the school or related school activities, so long as the vehicle that is used to transport the persons or property does not have a gross vehicle weight rating of 26,001 pounds or more and is not registered pursuant to NRS 706.801 to 706.861, inclusive.

2. Unless exempted by a specific state statute or a specific federal statute, regulation or rule, any person referred to in subsection 1 is subject to:

(a) The provisions of paragraph (d) of subsection 1 of NRS 706.171 and NRS 706.235 to 706.256, inclusive, 706.281, 706.457 and 706.458.

(b) All rules and regulations adopted by reference pursuant to paragraph (b) of subsection 1 of NRS 706.171 concerning the safety of drivers and vehicles.

(c) All standards adopted by regulation pursuant to NRS 706.173.

3. The provisions of NRS 706.311 to 706.453, inclusive, 706.471, 706.473, 706.475 and 706.6411 which authorize the Authority to issue:

(a) Except as otherwise provided in paragraph (b), certificates of public convenience and necessity and contract carriers' permits and to regulate rates, routes and services apply only to fully regulated carriers.

(b) Certificates of public convenience and necessity to operators of tow cars and to regulate rates for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle apply to operators of tow cars.

4. Any person who operates pursuant to a claim of an exemption provided by this section but who is found to be operating in a manner not covered by any of those exemptions immediately becomes liable, in addition to any other penalties provided in this chapter, for the fee appropriate to the person's actual operation as prescribed in this chapter, computed from the date when that operation began.

5. As used in this section, "private school" means a nonprofit private elementary or secondary educational institution that is licensed in this State.

Sec. 11. NRS 706.756 is hereby amended to read as follows:

706.756 1. Except as otherwise provided in subsection 2, any person who:

(a) Operates a vehicle or causes it to be operated in any carriage to which the provisions of NRS 706.011 to 706.861, inclusive, *and sections 2 and 3 of this act* apply without first obtaining a certificate, permit or license, or in violation of the terms thereof;

(b) Fails to make any return or report required by the provisions of NRS 706.011 to 706.861, inclusive, *and sections 2 and 3 of this act* or by the Authority or the Department pursuant to the provisions of NRS 706.011 to 706.861, inclusive ~~[-]~~, *and sections 2 and 3 of this act*;

(c) Violates, or procures, aids or abets the violating of, any provision of NRS 706.011 to 706.861, inclusive ~~[-]~~, *and sections 2 and 3 of this act*;

(d) Fails to obey any order, decision or regulation of the Authority or the Department;

(e) Procures, aids or abets any person in the failure to obey such an order, decision or regulation of the Authority or the Department;

(f) Advertises, solicits, proffers bids or otherwise is held out to perform transportation as a common or contract carrier in violation of any of the provisions of NRS 706.011 to 706.861, inclusive ~~[-]~~, *and sections 2 and 3 of this act*;

(g) Advertises as providing:

- (1) The services of a fully regulated carrier; or
 - (2) Towing services,
 - ↪ without including the number of the person's certificate of public convenience and necessity or contract carrier's permit in each advertisement;
 - (h) Knowingly offers, gives, solicits or accepts any rebate, concession or discrimination in violation of the provisions of this chapter;
 - (i) Knowingly, willfully and fraudulently seeks to evade or defeat the purposes of this chapter;
 - (j) Operates or causes to be operated a vehicle which does not have the proper identifying device;
 - (k) Displays or causes or permits to be displayed a certificate, permit, license or identifying device, knowing it to be fictitious or to have been cancelled, revoked, suspended or altered;
 - (l) Lends or knowingly permits the use of by one not entitled thereto any certificate, permit, license or identifying device issued to the person so lending or permitting the use thereof; or
 - (m) Refuses or fails to surrender to the Authority or Department any certificate, permit, license or identifying device which has been suspended, cancelled or revoked pursuant to the provisions of this chapter,
 - ↪ is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.
2. Any person who, in violation of the provisions of NRS 706.386, operates as a fully regulated common motor carrier without first obtaining a certificate of public convenience and necessity or any person who, in violation of the provisions of NRS 706.421, operates as a contract motor carrier without first obtaining a permit is guilty of a misdemeanor and shall be punished:
- (a) For a first offense within a period of 12 consecutive months, by a fine of not less than \$500 nor more than \$1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.
 - (b) For a second offense within a period of 12 consecutive months and for each subsequent offense that is committed within a period of 12 consecutive months of any prior offense under this subsection, by a fine of \$1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.
3. Any person who, in violation of the provisions of NRS 706.386, operates or permits the operation of a vehicle in passenger service without first obtaining a certificate of public convenience and necessity is guilty of a gross misdemeanor.
4. If a law enforcement officer witnesses a violation of any provision of subsection 2 or 3, the law enforcement officer may cause the vehicle to be towed immediately from the scene and impounded in accordance with NRS 706.476.

5. The fines provided in this section are mandatory and must not be reduced under any circumstances by the court.

6. Any bail allowed must not be less than the appropriate fine provided for by this section.

Sec. 12. NRS 706.781 is hereby amended to read as follows:

706.781 In addition to all the other remedies provided by NRS 706.011 to 706.861, inclusive, *and sections 2 and 3 of this act* for the prevention and punishment of any violation of the provisions thereof and of all orders of the Authority or the Department, the Authority or the Department may compel compliance with the provisions of NRS 706.011 to 706.861, inclusive, *and sections 2 and 3 of this act* and with the orders of the Authority or the Department by proceedings in mandamus, injunction or by other civil remedies.

Sec. 13. NRS 706.791 is hereby amended to read as follows:

706.791 1. If the Department is not satisfied with the records or statements of, or with the amount of fees paid by, any person pursuant to the provisions of NRS 706.011 to 706.861, inclusive, *and sections 2 and 3 of this act*, it may make an additional or estimated assessment of fees due from that person based upon any information available to it.

2. Every additional or estimated assessment bears interest at the rate of 1 percent per month, or fraction thereof, from the date the fees were due until they are paid.

3. If an assessment is imposed, a penalty of 10 percent of the amount of the assessment must be added thereto. If any part of the deficiency is found to be caused by fraud or an intent to evade the provisions of this chapter or the regulations adopted pursuant to this chapter, a penalty of 25 percent of the amount of the assessment must be added thereto.

4. The Department shall give the person written notice of the assessment. The notice may be served personally or by mail in the manner prescribed by Rule 5 of the Nevada Rules of Civil Procedure addressed to the person at the person's address as it appears in the records of the Department. Every notice of assessment must be served within 36 months after the end of the registration year for which the additional assessment is imposed.

5. If any person refuses or fails to make available to the Department, upon request, such records, reports or other information as determined by the Department to be necessary to enable it to determine that the amount of taxes and fees paid by that person is correct, the assessment made pursuant to the provisions of this section is presumed to be correct and the burden is upon the person challenging the assessment to establish that it is erroneous.

6. Any person against whom an assessment has been made pursuant to the provisions of this section may petition the Department in writing for a redetermination within 30 days after service of the notice. If a petition is not filed with the Department within that period, the assessment becomes final.

7. If a petition for redetermination is filed within 30 days, the Department shall reconsider the assessment and send the petitioner, by

certified mail, notice of its decision and the reasons therefor. A petitioner aggrieved by the Department's decision may appeal the decision by submitting a written request to the Department for a hearing not later than 30 days after notice of the decision was mailed by the Department. The Department shall schedule an administrative hearing and provide the petitioner with 10 days' notice of the time and place of the hearing. The Department may continue the hearing as may be necessary.

8. The order of the Department upon a petition becomes final 30 days after service of notice thereof. If an assessment is not paid on or before the date it becomes final, there must be added thereto in addition to any other penalty provided for in this chapter a penalty of 10 percent of the amount of the assessment.

9. Every remittance in payment of an assessment is payable to the Department.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

Amendment No. 411 to Senate Bill No. 428 clarifies that for a stolen and subsequently recovered vehicle, towed at the request of law enforcement, a tow operator may not impose an administrative fee or processing fee for the first four business days after the date the vehicle was placed in storage.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 429.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 412.

"SUMMARY—Revises certain provisions relating to taxicabs. (BDR 58-1103)"

"AN ACT relating to taxicabs; revising provisions relating to the authority of the Taxicab Authority to regulate the color scheme, insigne and design of the cruising lights of certain taxicabs; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a person must be a holder of a certificate of public convenience and necessity to operate a taxicab business. (NRS 706.386, 706.473, 706.8827) In counties whose population is less than 700,000 (currently all counties other than Clark County), the certificates are issued by the Nevada Transportation Authority, and in counties whose population is 700,000 or more (currently Clark County), the certificates are issued by the Taxicab Authority. (NRS 706.386, 706.881, 706.8827) Existing law requires the Taxicab Authority to: (1) approve or disapprove the color scheme, insigne and design of the cruising lights of taxicabs of a certificate holder in any county; and (2) ensure that the color scheme, insigne and design of the

cruising lights of one certificate holder are readily distinguishable from those of another certificate holder operating in the same county. (NRS 706.8833, NAC 706.486) Existing law also requires that certain information about a taxicab's fare schedule be displayed on each taxicab. (NRS 706.8835) This bill eliminates the requirement that the Taxicab Authority approve or disapprove the color scheme on the taxicabs of a particular certificate holder. This bill also requires the Taxicab Authority to allow a certificate holder in any county to place advertisements on the exterior of ~~not more than half of~~ the certificate holder's taxicabs, provided that the taxicabs bearing the advertisements are readily distinguishable from the taxicabs of other certificate holders operating in the same county and that the taxicabs still display the fare schedule as required.

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

Section 1. NRS 706.8833 is hereby amended to read as follows:

706.8833 1. The ~~color scheme~~ insigne and design of the cruising lights of each taxicab must conform to those approved for the certificate holder pursuant to regulations of the Authority.

2. The Authority shall approve or disapprove the ~~color scheme~~ insigne and design of the cruising lights of the taxicabs of a certificate holder in any county, and shall ensure that the ~~color scheme and~~ insigne of one certificate holder ~~are~~ is readily distinguishable from the ~~color schemes and~~ insignia of other certificate holders operating in the same county.

3. *The Authority shall allow a certificate holder in any county to place advertisements on the exterior of ~~not more than half of~~ the vehicles used as taxicabs in the operations of the certificate holder, provided that the taxicabs of the certificate holder which bear such advertisements:*

(a) Are readily distinguishable from the taxicabs of other certificate holders operating in the same county; and

(b) Meet the requirements of NRS 706.8835.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

Amendment No. 412 to Senate Bill No. 429 allows taxicab certificate holders to apply advertisement wraps on all vehicles. The original language limited the amount of taxicabs with advertisement wraps to not more than half of the vehicles used as taxicabs of each certificate holder.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 449.

Bill read second time.

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

Amendment No. 355.

"SUMMARY—Revises certain provisions relating to the unlawful disposal of effluent or solid waste . ~~[, sewage or other similar materials.]~~ (BDR 40-121)"

"AN ACT relating to public health; increasing the period during which a person is subject to additional penalties upon conviction of a third or subsequent offense ~~for~~ involving the unlawful disposal of ~~[sewage or certain other similar materials;]~~ any cesspool or septic tank effluent or solid waste ; ~~[]~~ providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth penalties for a person who is found guilty of illegally disposing of solid waste, sewage or certain other similar materials three or more times during a period of 2 years. Such an offender: (1) is guilty of a gross misdemeanor; and (2) must be imprisoned in the county jail for 1 year, clean up the dump site and perform community service. (NRS 444.630)

This bill increases from 2 years to 4 years the period during which a third or subsequent offense involving the illegal disposal of any cesspool or septic tank effluent or solid waste subjects the offender to those penalties.

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

Section 1. NRS 444.630 is hereby amended to read as follows:

444.630 1. A person who places, deposits or dumps, or who causes to be placed, deposited or dumped, or who causes or allows to overflow, any sewage, sludge, cesspool or septic tank effluent, or accumulation of human excreta, or any solid waste, in or upon any street, alley, public highway or road in common use, or upon any public park or other public property other than property designated or set aside for such a purpose by the governing body having charge thereof, or upon any private property, is guilty of:

(a) ~~For~~ *Except as otherwise provided in paragraph (c), for a first offense within the immediately preceding 2 years, a misdemeanor.*

(b) ~~For~~ *Except as otherwise provided in paragraph (c), for a second offense within the immediately preceding 2 years, a gross misdemeanor and shall be punished by imprisonment in the county jail for not less than 14 days but not more than 1 year. ~~[An offense that occurred within 2 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this paragraph when evidenced by a conviction, without regard to the sequence of the offenses and convictions.]~~*

(c) ~~For~~ *Except as otherwise provided in this paragraph, for a third or subsequent offense within the immediately preceding 2 ~~four~~ years, a gross misdemeanor and shall be punished by imprisonment in the county jail for 1 year.*

~~[2. An]~~ *If, within the immediately preceding 4 years, a person commits three or more offenses that involve placing, depositing or dumping, or*

causing to be placed, deposited or dumped, any cesspool or septic tank effluent or solid waste, the person is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for 1 year.

2. For the purposes of subsection 1, an offense that occurred within 2 or 4 years, as applicable, immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense ~~for the purposes of this paragraph~~ when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

3. In addition to any criminal penalty imposed pursuant to subsection 1, any civil penalty imposed pursuant to NRS 444.635 and any administrative penalty imposed pursuant to NRS 444.629, a court shall sentence a person convicted of violating subsection 1:

(a) If the person is a natural person, to clean up the dump site and perform 10 hours of community service under the conditions prescribed in NRS 176.087.

(b) If the person is a business entity:

(1) ~~For~~ Except as otherwise provided in subparagraph (2), for a first or second offense within the immediately preceding 2 years, to:

(I) Clean up the dump site; and

(II) Perform 40 hours of community service cleaning up other dump sites identified by the solid waste management authority.

(2) For a third or subsequent offense within the immediately preceding 2 or 4 years, as applicable pursuant to paragraph (c) of subsection 1, to:

(I) Clean up the dump site; and

(II) Perform 200 hours of community service cleaning up other dump sites identified by the solid waste management authority.

~~3.~~ 4. If a person is sentenced to clean up a dump site pursuant to subsection ~~2.~~ 3., the person shall:

(a) Within 3 calendar days after sentencing, commence cleaning up the dump site; and

(b) Within 5 business days after cleaning up the dump site, provide to the solid waste management authority proof of the lawful disposal of the sewage, solid waste or other matter that the person was convicted of disposing of unlawfully.

↪ The solid waste management authority shall prescribe the forms of proof which may be provided to satisfy the provisions of paragraph (b).

~~4.~~ 5. In addition to any other penalty prescribed by law, if a business entity is convicted of violating subsection 1:

(a) Such violation constitutes reasonable grounds for the revocation of any license to engage in business that has been issued to the business entity by any governmental entity of this State; and

(b) The solid waste management authority may seek the revocation of such a license by way of any applicable procedures established by the governmental entity that issued the license.

~~§~~ 6. Except as otherwise provided in NRS 444.585, ownership of solid waste does not transfer from the person who originally possessed it until it is received for transport by a person authorized to dispose of solid waste pursuant to this chapter or until it is disposed of at a municipal disposal site. Identification of the owner of any solid waste which is disposed of in violation of subsection 1 creates a reasonable inference that the owner is the person who disposed of the solid waste. The fact that the disposal of the solid waste was not witnessed does not, in and of itself, preclude the identification of its owner.

~~§~~ 7. All:

- (a) Health officers and their deputies;
- (b) Game wardens;
- (c) Police officers of cities and towns;
- (d) Sheriffs and their deputies;
- (e) Other peace officers of the State of Nevada; and
- (f) Other persons who are specifically designated by the local government

to do so,

↪ shall, within their respective jurisdictions, enforce the provisions of this section.

~~§~~ 8. A district health officer or a deputy of the district health officer or other person specifically designated by the local government to do so may issue a citation for any violation of this section which occurs within the jurisdiction of the district health officer.

~~§~~ 9. To effectuate the purposes of this section, the persons charged with enforcing this section may request information from any:

- (a) Agency of the State or its political subdivisions.
- (b) Employer, public or private.
- (c) Employee organization or trust of any kind.
- (d) Financial institution or other entity which is in the business of providing credit reports.
- (e) Public utility.

↪ Each of these persons and entities, their officers and employees, shall cooperate by providing any information in their possession which may aid in the location and identification of a person believed to be in violation of subsection 1. A disclosure made in good faith pursuant to this subsection does not give rise to any action for damages for the disclosure.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Amendment No. 355 to Senate Bill No. 449 retains at two years, the existing statutory timeframe for committing a third offense of dumping waste. It also increases to four years, the timeframe for committing a third offense for the unlawful disposal of cesspool or septic tank effluent or solid waste.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 456.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 245.

"SUMMARY—Revises provisions relating to operators of tow cars. (BDR 58-1089)"

"AN ACT relating to tow cars; authorizing certain insurance companies to designate vehicle storage lots; requiring operators of tow cars to tow certain vehicles to designated vehicle storage lots under certain circumstances; ~~requiring certain vehicle storage lots to pay a fee under certain circumstances;~~ revising certain provisions relating to operators of tow cars; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill authorizes an insurance company to designate certain vehicle storage lots to which certain vehicles insured by the insurance company must be towed under certain circumstances. Section 1 requires a law enforcement officer to make a good faith effort to determine the identity of the insurance company that provides coverage for the owner of such a vehicle and to make a good faith effort to communicate that information to the operator of the tow car before the vehicle is towed. ~~Section 1 also requires the owners of designated vehicle storage lots to pay a fee, determined by the Nevada Transportation Authority, to the law enforcement agency whose officer requested the vehicle to be towed.~~ Section 1 further provides that the amendatory provisions of this bill apply only to a county whose population is 700,000 or more (currently Clark County).

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

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

1. *An insurance company may designate a vehicle storage lot to which all ~~inoperable~~ vehicles that are inoperable because of an accident or stolen vehicles that which have been recovered after having been stolen and which are insured by that insurance company must be towed ~~+~~ pursuant to subsection 2. The designation of a vehicle storage lot must be provided in writing by the insurance company, its representative or the owner or operator of the vehicle storage lot to all providers of towing services that have obtained a certificate of public convenience and necessity and operate in the same geographical area in which the designated vehicle storage lot is situated.*

2. *If a law enforcement officer requests that an operator of a tow car tow a vehicle that is inoperable because of an accident or ~~a vehicle~~ which was recovered after having been stolen and is not otherwise subject to impoundment, the law enforcement officer shall make a good faith effort to determine the identity of the insurance company that provides coverage for*

the owner of the vehicle. If the law enforcement officer determines the identity of the insurance company, he or she shall inform the operator of the tow car of the identity of the insurance company. If the operator of the tow car:

(a) Is informed by a law enforcement officer of the identity of the insurance company that provides coverage for the owner of the vehicle; or

(b) Otherwise determines the identity of the insurance company that provides coverage for the owner of the vehicle,

↪ and the insurance company has designated a vehicle storage lot pursuant to subsection 1, the operator of the tow car shall tow the vehicle to the designated vehicle storage lot unless the owner of the vehicle or a representative of the insurance company has directed otherwise.

3. If an operator of a tow car fails to tow a vehicle to the designated vehicle storage lot pursuant to subsection 2, the operator of the tow car shall:

(a) Forfeit the charge for towing and storage of the vehicle; and

(b) Tow the vehicle free of charge to the vehicle storage lot designated by the insurance company or its representative not later than 24 hours after receiving a demand, which must be made in writing or by electronic mail, from the insurance company or its representative.

4. The owners of a vehicle storage lot designated by an insurance company pursuant to subsection 1 shall agree in writing to ~~f~~

~~(a) Indemnify~~ indemnify the relevant law enforcement agencies and their officers, employees, agents and representatives from any liability relating to the towing of a vehicle insured by the designating insurance company and to the storing of the vehicle at the vehicle storage lot if the law enforcement officer who requested the towing of the vehicle made a good faith effort to comply with the provisions of subsection 2. ~~f~~ and

~~(b) Pay the fee determined by the Authority pursuant to subsection 8 for each vehicle towed to the vehicle storage lot pursuant to this section for which the designating insurance company provides coverage for the owner of the vehicle. The fee must be paid to the law enforcement agency whose officer requested the vehicle be towed.~~

5. A vehicle storage lot must:

(a) Except as otherwise provided in subsection 6, comply with all applicable requirements imposed pursuant to NRS 706.4485 on an operator of a tow car; ~~and~~

(b) Comply with all applicable local laws and ordinances, including, without limitation, local laws and ordinances relating to business licenses, zoning, building and fire codes, parking, paving, lights and security ~~f~~; and

(c) If the vehicle storage lot is a salvage pool as that term is defined in NRS 487.400, comply with all applicable requirements imposed pursuant to NRS 487.400 to 487.510, inclusive.

6. A vehicle storage lot is not required to assess the rates and charges that have been approved by the Authority for the storage of a vehicle, but

may not assess a rate or charge in excess of those approved rates and charges. An operator of a tow car who tows a vehicle to a vehicle storage lot pursuant to this section ~~shall~~:

(a) Shall assess the rates and charges approved by the Authority for towing the vehicle.

(b) Is entitled to payment from the operator of the vehicle storage lot at the time the vehicle is towed to the vehicle storage lot.

7. Before designating a vehicle storage lot pursuant to subsection 1, an insurance company must obtain the approval of the Authority. The Authority shall approve the designation if the Authority determines that the vehicle storage lot has:

(a) Executed an indemnification agreement that meets the requirements of ~~paragraph (a) of~~ subsection 4;

(b) ~~Agreed to pay the fee approved by the Authority for each vehicle towed to the lot pursuant to paragraph (b) of subsection 4;~~

~~(c)~~ Satisfied the requirements of subsection 5; and

~~(d)~~ (c) Otherwise satisfied the requirements of this section.

8. ~~The Authority shall determine the amount of the fee to be paid by a vehicle storage lot pursuant to paragraph (b) of subsection 4.~~

~~9~~ The provisions of this section apply only to a county whose population is 700,000 or more.

~~10~~ 9. As used in this section:

(a) "Boat" means any vessel or other watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water.

(b) "Vehicle" has the meaning ascribed to it in NRS 706.146 and includes all terrain vehicles and boats.

(c) "Vehicle storage lot" means a business which, for a fee, stores vehicles that are inoperable ~~vehicles~~ because of an accident and which have been recovered after having been stolen ~~vehicles~~ and includes, without limitation, a salvage pool as that term is defined in NRS 487.400.

Sec. 2. NRS 706.011 is hereby amended to read as follows:

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

Sec. 3. NRS 706.163 is hereby amended to read as follows:

706.163 The provisions of NRS 706.011 to 706.861, inclusive, and section 1 of this act do not apply to vehicles leased to or owned by:

1. The Federal Government or any instrumentality thereof.
2. Any state or a political subdivision thereof.

Sec. 4. NRS 706.166 is hereby amended to read as follows:

706.166 The Authority shall:

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

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

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

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

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

(a) Providing training in safety;

(b) Reviewing and observing the programs or inspections of the carrier relating to safety; and

(c) Conducting inspections relating to safety at the operating terminals of the carrier.

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

(a) Fares of fully regulated carriers;

(b) All rates of fully regulated carriers and rates of operators of tow cars for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle;

(c) Classifications;

(d) Divisions;

(e) Allowances; and

(f) All charges of fully regulated carriers and charges of operators of tow cars for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle, including charges between carriers and compensation paid or received for the use of facilities and equipment.

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

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

Sec. 5. NRS 706.286 is hereby amended to read as follows:

706.286 1. When a complaint is made against any fully regulated carrier or operator of a tow car by any person, that:

(a) Any of the rates, tolls, charges or schedules, or any joint rate or rates assessed by any fully regulated carrier or by any operator of a tow car for

towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle are in any respect unreasonable or unjustly discriminatory;

(b) Any of the provisions of NRS 706.445 to 706.453, inclusive, *and section 1 of this act* have been violated;

(c) Any regulation, measurement, practice or act directly relating to the transportation of persons or property, including the handling and storage of that property, is, in any respect, unreasonable, insufficient or unjustly discriminatory; or

(d) Any service is inadequate,

↳ the Authority shall investigate the complaint. After receiving the complaint, the Authority shall give a copy of it to the carrier or operator of a tow car against whom the complaint is made. Within a reasonable time thereafter, the carrier or operator of a tow car shall provide the Authority with its written response to the complaint according to the regulations of the Authority.

2. If the Authority determines that probable cause exists for the complaint, it shall order a hearing thereof, give notice of the hearing and conduct the hearing as it would any other hearing.

3. No order affecting a rate, toll, charge, schedule, regulation, measurement, practice or act complained of may be entered without a formal hearing unless the hearing is dispensed with as provided in NRS 706.2865.

Sec. 6. NRS 706.321 is hereby amended to read as follows:

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

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

(1) Be open to public inspection; and

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

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

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

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

(1) Be open to public inspection; and

(2) Include all rates and charges for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle which the operator has established and which are in force at the time of filing.

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

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

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

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

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

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

Sec. 7. NRS 706.4463 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 8. NRS 706.4464 is hereby amended to read as follows:

706.4464 1. An operator of a tow car who is issued a certificate of public convenience and necessity may transfer it to another operator of a tow car qualified pursuant to the provisions of NRS 706.011 to 706.791, inclusive, *and section 1 of this act*, but no such transfer is valid for any purpose until a joint application to make the transfer is made to the Authority by the transferor and the transferee, and the Authority has authorized the substitution of the transferee for the transferor. No transfer of stock of a corporate operator of a tow car subject to the jurisdiction of the Authority is valid without the prior approval of the Authority if the effect of the transfer would be to change the corporate control of the operator of a tow car or if a transfer of 15 percent or more of the common stock of the operator of a tow car is proposed.

2. The Authority shall approve an application filed with it pursuant to subsection 1 if it determines that the transferee:

(a) Complies with the provisions of NRS 706.011 to 706.791, inclusive, *and section 1 of this act* and the regulations adopted by the Authority pursuant to those provisions;

(b) Uses equipment that is in compliance with the regulations adopted by the Authority;

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

(d) Has provided evidence that the transferee has filed with the Authority schedules and tariffs pursuant to NRS 706.321 which contain rates and charges and the terms and conditions that the operator of the tow car requires to perform towing services without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle which do not exceed the rates and charges that the transferor was authorized to assess for the same services.

3. The Authority may hold a hearing concerning an application submitted pursuant to this section only if:

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

(b) The Authority finds that after reviewing the information provided by the applicant and inspecting the operations of the applicant, it cannot make a determination as to whether the applicant has complied with the requirements of subsection 2.

4. The Authority shall not hold a hearing on an application submitted pursuant to this section if the application is made to transfer the certificate of public convenience and necessity from a natural person or partners to a corporation whose controlling stockholders will be substantially the same person or partners.

5. The approval by the Authority of an application for transfer of a certificate of public convenience and necessity of an operator of a tow car is not valid after the expiration of the term for the transferred certificate.

Sec. 9. NRS 706.4483 is hereby amended to read as follows:

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

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

Sec. 10. NRS 706.4485 is hereby amended to read as follows:

706.4485 1. A law enforcement agency that maintains and uses a list of operators of tow cars which are called by that agency to provide towing shall not include an operator of a tow car on the list unless the operator:

(a) Holds a certificate of public convenience and necessity issued by the Authority.

(b) Complies with all applicable provisions of this chapter and chapters 482 and 484A to 484E, inclusive, of NRS.

(c) Agrees to respond in a timely manner to requests for towing made by the agency.

(d) Maintains adequate, accessible and secure storage within the State of Nevada for any vehicle that is towed.

(e) Complies with all standards the law enforcement agency may adopt to protect the health, safety and welfare of the public.

(f) ~~Assesses~~ *Except as otherwise provided in section 1 of this act, assesses* only rates and charges that have been approved by the Authority for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle.

2. The Authority shall not require that an operator of a tow car charge the same rate to law enforcement agencies for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle that the operator charges to other persons for such services.

3. Except as otherwise provided in this subsection, if an operator of a tow car is included on a list of operators of tow cars that is maintained and used by the Nevada Highway Patrol pursuant to this section, the Nevada Highway Patrol shall not remove the operator of the tow car from the list, or restrict the operator's use pursuant thereto, solely on the ground that the operator is insured under the same policy of insurance as one other operator of a tow car who is included on the list and operates in the same geographical area. An operator of a tow car is not eligible for inclusion on the list if the operator is insured under the same policy of insurance as two or more other operators of tow cars who are included on the list and operate in the same geographical area.

Sec. 11. NRS 706.781 is hereby amended to read as follows:

706.781 In addition to all the other remedies provided by NRS 706.011 to 706.861, inclusive, *and section 1 of this act*, for the prevention and punishment of any violation of the provisions thereof and of all orders of the Authority or the Department, the Authority or the Department may compel compliance with the provisions of NRS 706.011 to 706.861, inclusive, *and section 1 of this act*, and with the orders of the Authority or the Department by proceedings in mandamus, injunction or by other civil remedies.

Sec. 12. This act becomes effective upon passage and approval.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

Thank you, Mr. President. Amendment No. 245 to Senate Bill No. 456 states a tow-car operator who tows a vehicle to a vehicle storage lot is entitled to payment at the time the vehicle is delivered. It also provides that a licensed "salvage pool" is included in the definition of a "storage lot" for purposes of this bill. The amendment adds clarifying language regarding the towing of cars that are inoperable as a result of an accident. Finally, it removes a fee to be paid by an insurance company to the law enforcement agency whose officer requested a vehicle tow.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 493.

Bill read second time.

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

Amendment No. 321.

"SUMMARY—Revises provisions concerning real property transactions. (BDR 54-642)"

"AN ACT relating to real property; revising provisions governing loans secured by a lien on real property in which investors hold the beneficial interests; revising provisions governing the reconveyance of a deed of trust; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Existing law establishes various requirements for mortgage loans in which a private investor holds the beneficial interest, including, without limitation, disclosure requirements and requirements for the servicing agreement. (NRS 645B.185, 645B.330, 645B.351, 645B.352, 645B.356) Existing law defines a "private investor" as a: (1) natural person who provides his or her own money for investment in a mortgage loan; and (2) two or more natural persons who jointly provide their own money for investment in a mortgage. (NRS 645B.01305) Section 1 of this bill revises this definition to state that a private investor is any person, including, without limitation, business entities and other legal entities who provides his, her or its own money for investment in a mortgage loan so that the requirements applicable to a private investor apply whether the investor is a natural person or a business or other legal entity.~~

Existing law provides that if the beneficial interest in a mortgage loan belongs to more than one natural person, the holders of 51 percent or more of the outstanding principal balance may act on behalf of all the holders of the beneficial interests of record. (NRS 645B.340) Section 2 of this bill revises this provision to ~~specify that the holders of the beneficial interests whose interest represent 51 percent or more of the outstanding principal balance may act on behalf of all the holders of the beneficial interest of record.~~ authorize the holders of 51 percent or more of the ownership interest in the real property previously securing the loan to act on behalf of all the holders of the ownership interests of record. Section 2 also specifies the manner in which the interests of the minority of persons who do not consent to a sale, transfer, encumbrance or lease of the real property are sold, transferred, encumbered or leased.

Existing law prohibits a mortgage broker from placing a private investor or arranging to place a private investor into a limited-liability, business trust or other business entity before a foreclosure of real property unless the mortgage broker complies with certain requirements. (NRS 645B.356)

Section 2.5 of this bill: (1) specifies that these requirements apply if private investors own real property because of a foreclosure sale or receipt of a deed in lieu of a foreclosure sale in full satisfaction of a loan; and (2) provides that a certain majority of the private investors may place the loan or the real property into a limited-liability company, business trust or other business entity on behalf of all the private investors. Section 2.5 also specifies the manner in which the interests of the minority of private investors who do not consent to the placement are placed in the limited-liability company, business trust or other business entity.

Existing law establishes various procedures for the reconveyance of a deed of trust upon the payment, satisfaction or discharge of the obligation or debt secured by the deed of trust. (NRS 107.073, 107.077) Section 3 of this bill establishes a procedure by which a trustor or the successor in interest of the trustor may cause the trustee to reconvey the deed of trust if: (1) the obligation or debt secured by the deed of trust has been paid in full or otherwise satisfied and the current beneficiary of the deed of trust cannot be located after a diligent search or refuses to execute and deliver to the trustee a proper request for reconveyance; or (2) a balance remains due on the obligation or debt secured by the deed of trust and the trustor or successor in interest of the trustor cannot locate the beneficiary of record after diligent search. Under section 3, the trustor or the successor in interest of the trustor must record a surety bond that meets certain requirements and a declaration signed under penalty of perjury which states certain information concerning the deed of trust. If the beneficiary of record does not object in writing to the execution and recording of a reconveyance within 30 days after the recording of the surety bond and declaration, the trustee must execute and record or cause to be recorded a reconveyance of the deed of trust and that reconveyance releases the lien of the deed of trust. Section 3 also establishes a procedure by which the trustor or the successor in interest of the trustor may substitute the current trustee for the purposes of executing and recording the reconveyance if the current trustee cannot be located after diligent search.

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

Section 1. ~~NRS 645B.01305 is hereby amended to read as follows:~~

~~645B.01305 "Private investor" means:~~

~~1. An investor [who is a natural person and] who provides [his or her] ~~the investor's own money for investment in a loan secured by a lien on real property; and~~~~

~~2. Two or more investors who are relatives and who jointly provide their own money for investment in a loan secured by a lien on real property, unless the investors are acting on behalf of a partnership, a corporation or some other separate legal entity.] (Deleted by amendment.)~~

Sec. 2. NRS 645B.340 is hereby amended to read as follows:

645B.340 1. Except as otherwise provided by law or by agreement between the parties and regardless of the date the interests were created, if

the beneficial interest in a loan or the ownership interest in the real property previously securing the loan belongs to more than one ~~natural~~ person, the holders of the beneficial interest in a loan whose interests represent 51 percent or more of the outstanding principal balance of the loan or the holders of 51 percent or more of the ownership interest in the real property, as indicated on a trustee's deed upon sale recorded pursuant to subsection 9 of NRS 107.080, a deed recorded pursuant to subsection 5 of NRS 40.430 by a sheriff conducting a foreclosure sale or a deed in lieu of foreclosure, and any subsequent deed selling, transferring or assigning an ownership interest, may act on behalf of all the holders of the beneficial interests or ownership interests of record on matters which require the action of the holders of the beneficial interests in the loan ~~or~~ or the ownership interests in the real property, including, without limitation:

(a) The designation of a mortgage broker or mortgage agent, servicing agent or any other person to act on behalf of all the holders of the beneficial interests or ownership interests of record;

(b) The foreclosure of the property for which the loan was made;

(c) The subsequent sale, transfer, encumbrance or lease of real property owned by the holders resulting from a foreclosure or the receipt of a deed in lieu of a foreclosure in full satisfaction of a loan ~~or~~, to a bona fide purchaser or encumbrancer for value;

(d) The release of any obligation under a loan in return for an interest in equity in the real property or, if the loan was made to a person other than a natural person, an interest in equity of that entity; and

(e) The modification or restructuring of any term of the loan, deed of trust or other document relating to the loan, including, without limitation, changes to the maturity date, interest rate and the acceptance of payment of less than the full amount of the loan and any accrued interest in full satisfaction of the loan.

2. If real property is sold, transferred, encumbered or leased pursuant to paragraph (c) of subsection 1, any beneficial interest in the loan or ownership interest in the real property of a holder who does not consent to the sale, transfer, encumbrance or lease, including, without limitation, any interest of a tenant in common who does not consent to the sale, transfer, encumbrance or lease, must be sold, transferred, encumbered or leased by a reference to this section and by the signatures on the necessary documents of the holders consenting to the sale, transfer, encumbrance or lease of the real property. The holders consenting to the sale, transfer, encumbrance or lease of the real property shall designate a representative to sign any necessary documents on behalf of the holders who do not consent to the sale, transfer, encumbrance or lease and, if the representative maintains written evidence of the consent of the number of holders described in subsection 1, the representative is not liable for any action taken pursuant to this subsection.

3. Any action which is taken pursuant to subsection 1 must be in writing.

~~3.~~ 4. The provisions of this section do not apply to a transaction involving two investors with equal interests.

Sec. 2.5. NRS 645B.356 is hereby amended to read as follows:

645B.356 1. A mortgage broker shall not place or arrange to place a private investor into a limited-liability company, business trust or other entity before or after foreclosure of the real property securing the loan, or receipt of a deed in lieu of foreclosure in full satisfaction of a loan secured by the real property, unless the mortgage broker:

(a) Provides a copy of the organizational documents of the limited-liability company, business trust or other entity to each investor not later than 5 days before the ~~investor transfers his or her~~ transfer of the interest in the loan ~~and~~ or the interest in the real property;

(b) Obtains the written authorization of a sufficient number of the investors to act on behalf of all the investors pursuant to NRS 645B.340; and

(c) Obtains the written authorization of each investor ~~who wishes to~~ consenting to the transfer of his or her interest in the loan or in the real property to the limited-liability company, business trust or other entity.

2. If a private investor is placed into a limited-liability company, business trust or other entity pursuant to subsection 1, any beneficial interest in a loan or ownership interest in real property of the private investor who does not consent to the placement, including, without limitation, any interest of a tenant in common who does not consent to the placement, must be placed in the limited-liability company, business trust or other entity by a reference to this section and by the signatures on the necessary documents of the investors consenting to the placement. The investors who consent to an action pursuant to subsection 1 shall designate a representative to sign any necessary documents on behalf of the investors who do not consent to the action, and if the representative maintains written evidence of the consent of the number of investors described in paragraph (b) of subsection 1, the representative is not liable for any action taken pursuant to this subsection.

3. The documents provided to each investor pursuant to paragraph (a) of subsection 1 must clearly and concisely state any fees which will be paid to the mortgage broker by the limited-liability company, business trust or other entity, and the sections of the documents that state fees must be initialed by the investor ~~or~~

~~or~~ and any representative designated pursuant to subsection 2.

4. A mortgage broker or mortgage agent shall not act as the attorney-in-fact or the agent of a private investor for the signing or dating of the written authorization.

~~4.~~ 5. Any term of a contract or other agreement that attempts to alter or waive the requirements of this section is void.

Sec. 3. Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Whenever the debt or obligation secured by a deed of trust has been paid in full or otherwise satisfied and the current beneficiary of record*

cannot be located after diligent search as described in subsection 9 or refuses to execute and deliver a proper request to reconvey the estate in real property conveyed to the trustee by the grantor, as required by NRS ~~107.087,~~ 107.077, or whenever a balance, including, without limitation, principal and interest, remains due on the debt secured by the deed of trust and the trustor or the trustor's successor in interest cannot locate after diligent search the current beneficiary of record, the trustor or the trustor's successor in interest may record or cause to be recorded a surety bond that meets the requirements of subsection 2 and a declaration that meets the requirements of subsection 3.

2. The surety bond ~~required by~~ recorded pursuant to subsection 1 must:

(a) Be acceptable to the trustee;

(b) Be issued by a surety authorized to issue surety bonds in this State in an amount equal to the greater of:

(1) Two times the amount of the original obligation or debt secured by the deed of trust plus any principal amounts, including, without limitation, advances, indicated in a recorded amendment thereto; or

(2) One-and-a-half times the total amount computed pursuant to subparagraph (1) plus any accrued interest on that amount;

(c) Be conditioned on payment of any amount which the beneficiary recovers in an action to enforce the obligation or recover the debt secured by the deed of trust, plus costs and reasonable attorney's fees;

(d) Be made payable to the trustee who executes a reconveyance pursuant to subsection 4 and the beneficiary or the beneficiary's successor in interest; and

(e) Contain a statement of:

(1) The recording date and instrument number or book and page number of the recorded deed of trust;

(2) The names of the original trustor and beneficiary;

(3) The amount shown as the original principal amount secured by the deed of trust; and

(4) The recording information and new principal amount shown in any recorded amendment to the deed of trust.

3. The declaration ~~required by~~ recorded pursuant to subsection 1 must:

(a) Be signed under penalty of perjury by the trustor or the trustor's successor in interest;

(b) State that it is recorded pursuant to this section;

(c) State the name of the original trustor;

(d) State the name of the beneficiary;

(e) State the name and address of the person making the declaration;

(f) Except as otherwise provided in subsection 8, contain a statement of the following, whichever is applicable:

(1) That the obligation or debt secured by the deed of trust has been paid in full or otherwise satisfied and the current beneficiary of record

cannot be located after diligent search or refuses to execute and deliver a proper request to reconvey the estate in real property conveyed to the trustee by the grantor, as required by NRS ~~107.087~~ 107.077; or

(2) That a balance, including, without limitation, principal and interest, remains due on the debt secured by the deed of trust and the trustor or the trustor's successor in interest cannot locate after diligent search the current beneficiary of record;

(g) Contain a statement that the declarant has mailed by certified mail, return receipt requested, to the last known address of the person to whom payments under the deed of trust were made and to the last beneficiary of record at the address indicated for such beneficiary on the instrument creating, assigning or conveying the deed of trust, a notice of the recording of the surety bond and declaration pursuant to this section, of the name and address of the trustee, of the beneficiary's right to record a written objection to the reconveyance of the deed of trust pursuant to this section and of the requirement to notify the trustee in writing of any such objection; and

(h) Contain the date of the mailing of any notice pursuant to this section and the name and address of each person to whom such a notice was mailed.

4. Not earlier than 30 days after the recording of the surety bond and declaration pursuant to subsections 1, 2 and 3, delivery to the trustee of the fees charged by the trustee for the preparation, execution or recordation of a reconveyance pursuant to subsection 7 of NRS 107.077, plus costs incurred by the trustee, and a demand for reconveyance under NRS 107.077, the trustee shall execute and record or cause to be recorded a reconveyance of the deed of trust pursuant to NRS 107.077, unless the trustee has received a written objection to the reconveyance of the deed of trust from the beneficiary of record within 30 days after the recording of the surety bond and declaration pursuant to subsections 1, 2 and 3. The recording of a reconveyance pursuant to this subsection has the same effect as a reconveyance of the deed of trust pursuant to NRS 107.077 and releases the lien of the deed of trust. A trustee is not liable to any person for the execution and recording of a reconveyance pursuant to this section if the trustee acted in reliance upon the substantial compliance with this section by the trustor or the trustor's successor in interest. The sole remedy for a person damaged by the reconveyance of a deed of trust pursuant to this section is an action for damages against the trustor or the person making the declaration described in subsection 3 or an action against the surety bond.

5. Upon the recording of a reconveyance of the deed of trust pursuant to subsection 4, interest no longer accrues on any balance remaining due under the obligation or debt secured by the deed of trust to the extent that the balance due has been stated in the declaration described in subsection 3. Notwithstanding any provision of chapter 120A of NRS, any amount of the balance remaining due under the obligation or debt secured by the deed of trust, including, without limitation, principal and interest, which is remitted to the issuer of the surety bond described in subsection 2 in connection with

the issuance of that surety bond must, if unclaimed within 3 years after remittance, be property that is presumed abandoned for the purposes of chapter 120A of NRS. From the date on which the amount is paid or delivered to the Administrator of Unclaimed Property pursuant to NRS 120A.570, the issuer of the surety bond is relieved of any liability to pay to the beneficiary or his or her heirs or successors in interest the amount paid or delivered to the Administrator.

6. Any failure to comply with the provisions of this section does not affect the rights of a bona fide purchaser or encumbrancer for value.

7. This section shall not be deemed to create an exclusive procedure for the reconveyance of a deed of trust and the issuance of surety bonds and declarations to release the lien of a deed of trust, and shall not affect any other procedures, whether or not such procedures are set forth in statute, for the reconveyance of a deed of trust and the issuance of surety bonds and declaration to release the lien of a deed of trust.

8. For the purposes of this section, the trustor or the trustor's successor in interest may substitute the current trustee of record without conferring any duties upon that trustee other than duties which are incidental to the execution of a reconveyance pursuant to this section, if:

(a) The debt or obligation secured by a deed of trust has been paid in full or otherwise satisfied;

(b) The current trustee of record and the current beneficiary of record cannot be located after diligent search as described in subsection 9;

(c) The declaration filed pursuant to subsection 3:

(1) In addition to the information required to be stated in the declaration pursuant to subsection 3, states that the current trustee of record and the current beneficiary of record cannot be located after diligent search; and

(2) In lieu of the statement required by paragraph (f) of subsection 3, contains a statement that the obligation or debt secured by the deed of trust has been paid in full or otherwise satisfied and the current beneficiary of record cannot be located after diligent search or refuses to execute and deliver a proper request to reconvey the estate in real property conveyed to the trustee by the grantor, as required by NRS ~~107.087~~ 107.077;

(d) The substitute trustee is a title insurer that agrees to accept the substitution, except that this paragraph does not impose a duty on a title insurer to accept the substitution; and

(e) The surety bond required by this section is for a period of not less than 5 years.

9. For the purposes of subsection 1, a diligent search has been conducted if:

(a) A notice stating the intent to record a surety bond and declaration pursuant to this section, the name and address of the trustee, the beneficiary's right to record a written objection to the reconveyance of the deed of trust pursuant to this section and the requirement to notify the trustee

in writing of any such objection, has been mailed by certified mail, return receipt requested, to the last known address of the person to whom payments under the deed of trust were made and to the last beneficiary of record at the address indicated for such beneficiary on the instrument creating, assigning or conveying the deed of trust.

(b) A search has been conducted of the telephone directory in the city where the beneficiary of record or trustee of record, whichever is applicable, maintained its last known address or place of business.

(c) If the beneficiary of record or the beneficiary's successor in interest, or the trustee of record or the trustee's successor in interest, whichever is applicable, is a business entity, a search has been conducted of the records of the Secretary of State and the records of the agency or officer of the state of organization of the beneficiary, trustee or successor, if known.

(d) If the beneficiary of record or trustee of record is a state or national bank or state or federal savings and loan association, an inquiry concerning the location of the beneficiary or trustee has been made to the regulator of the bank or savings and loan association.

10. *As used in this section:*

(a) "Surety" means a corporation authorized to transact surety business in this State pursuant to NRS 679A.030 that:

(1) Is included in the United States Department of the Treasury's Listing of Approved Sureties; and

(2) Issues a surety bond pursuant to this section that does not exceed the underwriting limitations established for that surety by the United States Department of the Treasury.

(b) "Surety bond" means a bond issued by a surety for the reconveyance of a deed of trust pursuant to this section.

Sec. 4. This act becomes effective on July 1, 2013.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Thank you, Mr. President. Amendment No. 321 to Senate Bill No. 493 retains the definition of "private investor." It also provides that the holders of 51 percent or more of the balance of a loan or ownership interest in a property may act on behalf of all of the holders of record.

Finally, the amendment revises provisions concerning actions authorized to be taken by the holder of 51 percent or more of the balance of a loan or ownership interest in a property and to provide for the disposition of the minority beneficial interests in the event of foreclosure or receipt in deed in lieu of foreclosure in full satisfaction of the loan in which multiple holders have an interest.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Denis moved that the Senate recess until 3:00 p.m.

Motion carried.

Senate in recess at 1:11 p.m.

SENATE IN SESSION

At 3:17 p.m.

President Krolicki presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Senate Bill No. 2.

Bill read third time.

Remarks by Senator Spearman.

Thank you, Mr. President. Senate Bill No. 2 declares that it is the intent of the Legislature that a Board of County Commissioners, a City Council or an incorporated city, with limited exceptions, may exercise the powers necessary for the effective operation of the government, even if the power to perform these acts is neither expressed nor implied, so long as the power is not expressly prohibited or limited by constitutional or statutory provisions or granted to another entity.

Except as expressly granted by statute, a Board of County Commissioners, a City Council or an incorporated city shall not: (1) condition or limit its civil liability unless such condition or limitation is part of a legally executed contract or agreement between the respective local government and another political subdivision or a private person or business; (2) prescribe the law governing civil actions between private persons; (3) impose duties on another political subdivision unless the performance of the duties is part of a legally executed agreement between the respective local government and another political subdivision; (4) impose a tax; (5) impose a service charge or user fee greater than the actual cost of providing the services; (6) regulate conduct that is regulated by a State agency; or (7) order or conduct an election. This bill is effective on July 1, 2013.

Roll call on Senate Bill No. 2:

YEAS—18.

NAYS—Cegavske, Settlemeyer—2.

EXCUSED—Segeberblom.

Senate Bill No. 2 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 27.

Bill read third time, as amended.

Remarks by Senator Jones.

Thank you, Mr. President. Senate Bill No. 27 clarifies the authority of the Attorney General to defend present or former State judicial officers who are sued for certain acts or omissions relating to their public duties or employment. State judicial officers are defined as any justice of the Supreme Court, senior justice, judge of a district court or senior judge. In addition, the measure clarifies the authority of the chief legal officer or other authorized legal representative of a political subdivision to provide legal counsel under certain circumstances to any present or former local judicial officers. Local judicial officers are defined as any justice of the peace, senior justice of the peace, municipal judge or senior municipal judge of that political subdivision.

Senate Bill No. 27 also requires the Attorney General or the chief legal officer or other authorized legal representative of a political subdivision to provide counsel for certain persons who are not employees or officers of the State or political subdivision, but are named as defendants in a civil action solely because of an alleged act or omission relating to the public duties or employment of certain officers or employees of the State or political subdivision. I urge your support.

Roll call on Senate Bill No. 27:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 27 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 45.

Bill read third time.

Remarks by Senator Hammond.

Senate Bill No. 45 relates to the sealing of certain records of criminal history. It revises information that must be included in a petition to seal all records relating to a conviction. In addition, the bill revises the definition of an “agency of criminal justice” to include a subunit of any governmental agency and clarifies that the sealing of all records of a conviction includes those in the custody of such an agency of criminal justice.

Roll call on Senate Bill No. 45:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 45 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 47.

Bill read third time.

Remarks by Senator Atkinson.

Thank you, Mr. President. Senate Bill No. 47 makes various changes to provisions governing the regulation of the mortgage industry. A nonprofit agency or organization that otherwise would be subject to the provisions of statutes governing mortgage brokers and mortgage agents is exempt from such provisions if, in addition to existing requirements, it maintains tax exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986.

Senate Bill No. 47 clarifies the employment, association and sponsorship requirements that a mortgage agent must satisfy in order to provide services as a mortgage agent. In addition, the co-brokering of a commercial loan through the cooperation of two or more mortgage brokers is not prohibited if such a transaction is not inconsistent with any other provision governing mortgage brokers and mortgage agents.

Further, Senate Bill No. 47 requires an attorney to be licensed to practice in Nevada and not be engaged in a practice comprised primarily of providing a covered service to his or her clients in order to be exempt from licensure as a foreclosure consultant or foreclosure purchaser. Finally, the bill defines the term “employee” in the same manner that the term is defined under federal law in the context of mortgage lending. Thank you. I urge this bill’s passage.

Roll call on Senate Bill No. 47:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 47 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 60.

Bill read third time.

Remarks by Senators Brower and Jones.

SENATOR BROWER:

Senate Bill No. 60 is a common-sense clean-up bill from the Secretary of State. It relates to issues concerning registered agents and other matters. It received unanimous support from the Senate Committee on Judiciary with one abstention. I urge your support today.

SENATOR JONES:

Conflict of interest declared by Senator Jones. My law firm represents the Nevada Registered Agents Association, the only opponent to the bill.

Roll call on Senate Bill No. 60:

YEAS—19.

NAYS—None.

NOT VOTING—Jones.

EXCUSED—Segeberblom.

Senate Bill No. 60 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 65.

Bill read third time.

Remarks by Senator Settlemeyer.

Senate Bill No. 65 expands the authority of the Division of Environmental Protection of the State Department of Conservation and Natural Resources to issue orders, other than emergency orders, to correct violations by public water system operators, if the Division of Environmental Protection has reason to believe that a person is engaged in, or is about to engage in, a practice which violates certain provisions relating to public water systems. Thank you. I urge your support.

Roll call on Senate Bill No. 65:

YEAS—20.

NAYS—None.

EXCUSED—Segeberblom.

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

Bill ordered transmitted to the Assembly.

Senate Bill No. 101.

Bill read third time.

Remarks by Senator Settlemeyer.

Thank you, Mr. President. Senate Bill No. 101 authorizes a department of alternative sentencing to include a “supervised release” who is a person charged with or convicted of a misdemeanor, gross misdemeanor or felony and who has been released from custody before trial or sentencing, subject to the conditions imposed by the court. This is a practice being routinely done by many counties; however, they need it codified. I urge your support.

Roll call on Senate Bill No. 101:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 101 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 106.

Bill read third time.

Remarks by Senator Hutchison.

Thank you, Mr. President. Senate Bill No. 106 provides standards to determine whether the parent or guardian of a child is required to pay for the child's legal representation in juvenile court if the court has appointed an attorney to represent the child. It requires the juvenile court to make a finding that a parent or guardian of the child is indigent under certain circumstances.

Senate Bill No. 106 authorizes the court to enter a civil judgment against a criminal defendant for the amount of any delinquent fines, administrative assessments, fees and restitution imposed. The juvenile court may enter a similar civil judgment against a parent or child. In both instances, the civil judgment may be treated the same as a judgment for money in a civil action, and a person who fails to satisfy the judgment may be found in contempt. The court may include satisfaction of a civil judgment entered by the juvenile court in a sentence imposed by the court against a defendant transferred from the juvenile court.

Senate Bill No. 106 authorizes a juvenile court to establish a restitution contribution fund to provide restitution to victims of unlawful acts committed by children. The measure also authorizes the court to waive all or part of any community service imposed against a child for good cause shown and prohibits reporting a judgment to a credit agency until the child has reached the age of 21. Finally, the measure revises the purposes for which money collected from fees imposed by a court may be used.

Senate Bill No. 106 passed unanimously out of the Senate Committee on Judiciary. I urge your support.

Roll call on Senate Bill No. 106:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 106 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 122.

Bill read third time.

Remarks by Senator Atkinson.

Thank you, Mr. President. Senate Bill No. 122 increases the number of commissioners of a regional housing authority from 9 to 12, and it provides that 4 of the commissioners must represent tenants and be appointed, respectively, by the governing bodies of the 3 largest cities in the county. The fourth representative is to be appointed by Clark County. The bill also staggers the terms of the newly appointed tenant representatives so that their terms will not expire at the same time. The provisions of the bill are effective on July 1, 2013.

Roll call on Senate Bill No. 122:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 122 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 131.

Bill read third time.

Remarks by Senator Hutchison.

Senate Bill No. 131 authorizes the personal representative of a decedent to take control of, conduct, continue or terminate any account on any website providing social networking or web log, microblog, short message, electronic mail service or other similar electronic or digital assets of the decedent. It clarifies that a personal representative is not authorized through this measure to take control of, conduct, continue or terminate any financial account of the decedent including without limitation, a bank account or investment account. Senate Bill No. 131 passed unanimously out of the Senate Committee on Judiciary. I urge your support.

Roll call on Senate Bill No. 131:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 131 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 134.

Bill read third time.

Remarks by Senator Goicoechea.

Thank you, Mr. President. Senate Bill No. 134 authorizes a person to apply for a temporary permit to appropriate groundwater for watering livestock when the point of diversion is within a county, or a contiguous county, that is under a drought declaration. Any associated well must be plugged and sealed upon expiration of the temporary permit. A temporary permit issued for these purposes must not exceed one year in duration.

Senate Bill No. 134 also requires the Nevada Department of Wildlife, if it constructs or causes to be constructed a fence, to ensure that the fence is constructed and maintained in such a manner as to prevent livestock from being trapped in the fence. Finally, Senate Bill No. 134 requires each guzzler for use by wildlife to include a posted notice providing contact information that may be used to notify the person or agency that placed the guzzler if it is in disrepair. The bill is effective on October 1, 2013. For any guzzler in use on or after October 1, 2013, the person or agency that placed the guzzler must comply with the notice requirements by October 1, 2014. This bill passed unanimously out of the Senate Committee on Natural Resources.

Roll call on Senate Bill No. 134:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 134 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 143.

Bill read third time.

Remarks by Senator Woodhouse.

Thank you, Mr. President. Senate Bill No. 143 directs the Department of Motor Vehicles to add at least one question to the written driver's license examination concerning the Nevada law prohibiting the use of cell phones or other handheld devices while driving. This bill is effective on January 1, 2014. I would appreciate your support.

Roll call on Senate Bill No. 143:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

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

Bill ordered transmitted to the Assembly.

Senate Bill No. 177.

Bill read third time.

Remarks by Senator Settlemeyer.

Thank you, Mr. President. I appreciate everyone in this Body working with me on this bill. In doing the research, Nevada and ten other states do not have laws on this subject. Senate Bill No. 177 prohibits a child who is under the age of 18 from purchasing or being in possession of tobacco products, using tobacco products or falsely representing his or her age to acquire tobacco products. A child who commits one of these offenses and is found guilty will be subject to fines of \$25 for the first offense, \$50 for the second offense and \$75 for the third or any subsequent offenses. These are only status offenses. These offenses would not be on the child's permanent record.

Senate Bill No. 177 provides that the juvenile court may order a child who commits an offense related to tobacco to attend and complete a tobacco awareness and cessation program. The court may order the child or the parent or guardian of the child, or both, to pay the reasonable costs for the child to attend the program. The measure provides that for a third or subsequent offense, the juvenile court may order the suspension of the child's driver's license for at least 30 days, but not longer than 90 days. The court may also order a restriction on a driver's license for a child who willfully fails to pay any fine or assessment related to a tobacco offense. The measure provides that a court may provide work and health-care exemptions from the driver's license restrictions. Thank you. I urge your support.

Roll call on Senate Bill No. 177:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 177 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 198.

Bill read third time.

Remarks by Senator Hardy.

Senate Bill No. 198 revises provisions relating to the practice of chiropractic. The measure provides that a chiropractic assistant may perform certain ancillary service under indirect supervision if: (1) the services are performed on an established patient; (2) the supervising chiropractic physician is reasonably accessible by telephone, facsimile or other electronic means; and (3) the services are performed in the primary practice of the supervising chiropractic physician or a hospital. A chiropractor who employs one or more assistants who perform such services must maintain certain liability insurance. Senate Bill No. 198 also requires the Chiropractic Physicians' Board of Nevada to adopt regulations concerning these circumstances.

Roll call on Senate Bill No. 198:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 198 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 235.**Bill read third time.****Remarks by Senator Parks.**

Thank you, Mr. President. Senate Bill No. 235 authorizes a local law enforcement agency to establish or utilize an electronic reporting system to receive information relating to scrap metal purchases within its jurisdiction. The measure requires that the system be electronically secure and accessible only to: (1) a scrap metal processor for the purpose of submitting certain information; (2) an officer of a local law enforcement agency; and (3) an authorized employee of any third party that the local law enforcement agency contracts with for the purpose of receiving and storing the information submitted by a scrap metal processor.

A person is immune from any civil liability for any action taken with respect to carrying out the provisions of Senate Bill No. 235 if the actions are taken in good faith and without malicious intent. This bill is effective on October 1, 2013.

Roll call on Senate Bill No. 235:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 235 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 236.**Bill read third time.****Remarks by Senator Spearman.**

Thank you, Mr. President. Senate Bill No. 236 requires each State agency, as soon as reasonably practicable, but not later than June 30, 2015, to make available on a website maintained by the agency, an electronic version of each of the agency's administrative forms in a format allowing the forms to be completed, downloaded and saved electronically and submitted securely to the agency via the Internet.

Senate Bill No. 235 authorizes a State agency to utilize any program, software or technology in the manner it deems appropriate and to cooperate with another State agency to comply. An agency may also comply with the bill's provisions in phases over time in order to meet the deadline, and the agency may apply to the Interim Finance Committee for a waiver from the

bill's requirements. The waiver must be granted if it is determined that extenuating circumstances exist or that the cost of complying would place too heavy a burden on the agency's operations.

Upon receiving a written request from any other State agency, an agency is authorized to provide a copy of any record maintained by the State agency other than a record that is declared by law to be confidential or which the agency determines must be kept confidential. This bill is effective upon passage and approval.

This bill gets us a little bit closer to compliance with the Americans with Disabilities Act by allowing people with certain disabilities to access forms. I urge your support for this bill.

Roll call on Senate Bill No. 236:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 236 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 258.

Bill read third time.

Remarks by Senator Brower.

Thank you, Mr. President. This is "Erin's Law." If you were on the Committee hearing this bill, I want to thank you for your support. If you are a co-sponsor, I especially want to thank you for your support. And, if you are the Chair of the Senate Committee on Health and Human Services, I want to tell you I appreciate your support on this bill.

This bill is named for Erin Merryn who joined us at the Committee hearing to testify on behalf of Senate Bill No. 258. She is traveling across the Country advocating for the passage of this law in each state. Nevada's version of "Erin's Law" will create the multi-disciplinary Task Force on the Prevention of Sexual Abuse of Children which will study the very real problem of childhood sexual abuse in our State.

This is a big deal. I would appreciate your support.

Roll call on Senate Bill No. 258:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 258 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 268.

Bill read third time.

Remarks by Senators Ford and Brower.

SENATOR FORD:

Thank you, Mr. President. This is the "Kelsey Smith Act." Senate Bill No. 268 is named for a young lady who, unfortunately, was found raped and murdered in Kansas.

Special thanks to the Chair of the Senate Committee on Commerce, Labor and Energy for shepherding this through the Committee. It had unanimous support.

Senate Bill No. 268 has the support of law enforcement. It was vetted by the American Civil Liberties Union, and it also has the support of mobile phone companies. Senator Greg Smith, our colleague in Kansas—who got to meet my colleague from Senate District No. 20, who is also from Kansas—came to testify in support of the bill. It was his daughter, Kelsey, who was murdered.

This bill allows a wireless telecommunications provider to release Global Positioning System's locational data to law enforcement personnel in cases of emergency, as defined in the statute. It shields a wireless telecommunications company from being liable when they do that. This bill will enable law enforcement to address emergency situations faster and easier.

In Kelsey Smith's situation, it took three days for the Global Positioning System's locational data in her mobile phone to be released to law enforcement. Within 45 minutes of the release of the information, they found the phone next to her dead body. I urge your support.

SENATOR BROWER:

I want to thank my colleague from Senate District No. 11 for bringing this bill forward. I can tell you from my experience how valuable this technology is. I am certain it is being used right now by law enforcement officials investigating the Boston Marathon bombing. It is an incredibly important law.

Roll call on Senate Bill No. 268:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 268 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 272.

Bill read third time.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Senate Bill No. 272 provides for two separate revisions of the boundary line between Storey County and Washoe County upon the agreement between the Board of County Commissioners of Storey County and the Board of County Commissioners of Washoe County.

There are two separate, noncontiguous parcels. If the counties can agree on one or both of those parcels moving between the two counties, this allows them to adopt resolutions to make the land swap. It also gives them the option of moving just one of the parcels, whatever they choose.

The provisions of the bill expire by limitation on June 30, 2015, should either or both of the counties fail to adopt resolutions approving the boundary line revisions.

Roll call on Senate Bill No. 272:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 272 having received constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 273.

Bill read third time.

Remarks by Senator Settlemeyer.

Thank you, Mr. President. Senate Bill No. 273 provides that in a county that does not have a metropolitan police department or whose population is less than 100,000, currently counties other than Clark and Washoe Counties, a deputy sheriff who has completed a 12-month probationary period may be terminated from employment for cause for failing to become certified by the Peace Officers' Standards and Training Commission within the statutorily required time, for losing that certification or for failing to maintain a valid driver's license. I urge your support.

Roll call on Senate Bill No. 273:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 273 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 287.

Bill read third time.

Remarks by Senator Hardy.

Senate Bill No. 287 authorizes the holder of a license or a certificate of registration issued by the State Board of Cosmetology to display a duplicate of the license or certificate in lieu of the original license or certificate. Failure to display a duplicate under certain circumstances is grounds for disciplinary action by the State Board of Cosmetology. The bill authorizes a licensee to obtain a duplicate license from the State Board of Cosmetology if required by the licensee for reasons other than when the original is destroyed, misplaced or mutilated, or the name or address of the licensee changes.

Roll call on Senate Bill No. 287:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 287 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 305.

Bill read third time.

Remarks by Senator Settlemeyer.

Senate Bill No. 305 comes about from my former Youth Legislator who is now in another district due to redistricting. He had come up with a great idea that was not selected by the Nevada Youth Legislature as their legislation proposal. Because I thought it was a good idea, I brought it forward and it is before you now. Thank you, and I urge your support.

Roll call on Senate Bill No. 305:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 305 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 313.

Bill read third time.

Remarks by Senators Denis and Hardy.

SENATOR DENIS:

Thank you, Mr. President. Senate Bill No. 313 clarifies the definition of “autonomous vehicle technology” by excluding certain driver assistance features unless the combined effect of all such features enables the vehicle to be driven without the active control or monitoring of a

human operator. Additional provisions include: (1) while testing an autonomous vehicle, a capable human operator must be in the driver's seat; (2) an autonomous vehicle must be equipped with a means to disengage the autonomous technology and an indicator must be present to signal when the autonomous technology is engaged or disengaged; (3) a manufacturer of a motor vehicle that has been converted by a third party into an autonomous vehicle cannot be held legally liable for damages caused by the conversion; and (4) prior to the start of testing a vehicle equipped with autonomous technology, the entity performing the test must submit a \$5 million instrument of insurance, surety bond or proof of self-insurance to the Department of Motor Vehicles. This bill is effective on July 1, 2013.

SENATOR HARDY:

Thank you, Mr. President. If someone is in the autonomous vehicle and is less than sober, who receives the ticket?

SENATOR DENIS:

Thank you, Mr. President. The bill indicates "a capable human operator must be in the driver's seat."

Roll call on Senate Bill No. 313:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 313 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 315.

Bill read third time.

Remarks by Senator Denis.

Thank you, Mr. President. Senate Bill No. 315 revises the membership of district boards of health by adding a member who represents a recycling business that is not in the business of disposing of municipal waste and clarifying that a certain member may not be affiliated with a gaming establishment. It also requires that certain members may not serve more than two terms. This bill is effective on July 1, 2013.

Roll call on Senate Bill No. 315:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 315 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 356.

Bill read third time.

Remarks by Senator Hammond.

Thank you, Mr. President. Senate Bill No. 356 revises provisions relating to statutory covenants that may be adopted by reference in a deed of trust. Specifically, the measure adds a provision that the parties to a deed of trust in connection with a trustee's sale may pay reasonable counsel fees and costs actually incurred. The measure also provides that an assumption fee for a change in parties to a deed of trust may be set forth as a fixed sum or a percentage of the amount secured by the deed of trust and remaining unpaid at the time of assumption, or a combination of the two.

Senate Bill No. 356 further requires the signature of the banking or other financial institution when an agreement to sell real property secured by the mortgage or deed of trust to a third party is for an amount less than the indebtedness secured. Finally, the measure amends provisions relating to impound trust accounts.

Roll call on Senate Bill No. 356:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 356 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 436.

Bill read third time.

Remarks by Senator Spearman.

Senate Bill No. 436 creates the Nevada State Parks and Cultural Resources Endowment Fund to be administered by a committee consisting of the Administrator of the Division of State Parks, the Administrator of the Office of Historic Preservation and three members appointed by the Governor. The State Treasurer is to deposit in the Fund any money received from any person who wishes to contribute to the Fund. The Nevada State Parks and Cultural Resources Endowment Fund must only be used for the purposes of the enhancement of State parks and the preservation of the cultural resources of this State. Any interest earned on money in the Fund must be credited to the Fund. The principal of the Fund must not be spent, and only the interest earned on the principal may be used to carry out the provisions of the bill. This bill is effective upon passage and approval.

Roll call on Senate Bill No. 436:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 436 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 440.

Bill read third time.

Remarks by Senator Parks.

Thank you, Mr. President. Senate Bill No. 440 revises the Henderson City Charter to delete antiquated provisions and require, among other things, that the City's ward boundaries must be changed whenever the population of one ward exceeds that of any other by more than five percent. It also requires the City Council to fill vacancies in the offices of Mayor, City Council or Municipal Judge by appointment within 60 days, or by special election not later than 90 days after the vacancy occurs. The bill further provides that a candidate who is elected to office after a primary or general election must take office at the second regular City Council meeting in June, immediately following the general election.

The City Council may remove the City Manager for cause according to agreed-upon terms of employment, and it may remove the City Attorney, City Clerk or City Manager if the officer is found guilty of nonfeasance, misfeasance or malfeasance in office. All executive officers must reside within the City, and the City Attorney must advise all City offices, departments and divisions in matters with respect to the City. Finally, the measure removes the three percent cap

on real property taxes the City may levy, and it amends to whom the City's civil service classifications apply. This bill is effective on October 1, 2013.

Roll call on Senate Bill No. 440:

YEAS—20.

NAYS—None.

EXCUSED—Segeberblom.

Senate Bill No. 440 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 470.

Bill read third time.

Remarks by Senators Kihuen and Hardy.

SENATOR KIHUEN:

Thank you, Mr. President. Senate Bill No. 470 increases certain fees collected by the Commission on Postsecondary Education. Fees include those for an initial license, changes in ownership, renewals of agent permits and unlicensed out-of-state institutions to employ agents or offer experiential courses. A new fee for approval of an alcohol awareness program is set at \$500. The bill is effective on July 1, 2013.

SENATOR HARDY:

I would like to disclose a potential conflict of interest. I was an employee of Touro University Nevada.

Roll call on Senate Bill No. 470:

YEAS—18.

NAYS—Gustavson—1.

NOT VOTING—Hardy.

EXCUSED—Segeberblom.

Senate Bill No. 470 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 476.

Bill read third time.

Remarks by Senator Brower.

Thank you, Mr. President. Senate Bill No. 476 provides that payment for a special counsel employed by the Attorney General may come from available federal grants or a permanent fund in the State Treasury other than coming from the State General Fund.

Roll call on Senate Bill No. 476:

YEAS—20.

NAYS—None.

EXCUSED—Segeberblom.

Senate Bill No. 476 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 508.

Bill read third time.

Remarks by Senators Manendo and Parks.

SENATOR MANENDO:

Thank you, Mr. President. Senate Bill No. 508 eliminates provisions concerning the California-Nevada Super Speed Ground Transportation System and other obsolete statutes. It reorganizes the Super Speed Ground Transportation System under the State of Nevada and removes California as a participant from the current statute. The bill also repeals three statutes related to railroads as recommended by the Legislative Commission. I urge your support.

SENATOR PARKS:

I am a member of the California-Nevada Super Speed Ground Transportation Commission.

Roll call on Senate Bill No. 508:

YEAS—20.

NAYS—None.

EXCUSED—Segeberblom.

Senate Bill No. 508 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Joint Resolution No. 1.

Resolution read third time.

Remarks by Senators Manendo, Kieckhefer, Brower, Ford and Roberson.

SENATOR MANENDO:

Thank you, Mr. President. Senate Joint Resolution No. 1 expresses support for wild horses and burros by declaring that these animals are an integral part of the ecosystem and rangelands of the United States and the State of Nevada. The resolution notes that wild horses and burros are natural resources and cultural assets with the potential to promote tourism and job creation, particularly with the building of “eco-sanctuaries.” The resolution notes that these animals depend on the understanding, cooperation and fairness of all interested persons. In addition, the resolution expresses the Legislature’s support for the preservation and protection of wild horses and burros and the development of wild horse and burro-related ecotourism. Finally, Senate Joint Resolution No. 1 encourages a spirit of cooperation between wild horse and burro advocates, private land owners and the State Department of Agriculture.

I would like to thank my colleague from Senate District No. 11 who gave me a Nevada quarter. On the back there are free range horses running wild and having a great time.

SENATOR KIECKHEFER:

Thank you, Mr. President. There are significant parts of Senate Joint Resolution No. 1 that I agree with. I agree with the intent of creating eco-sanctuaries and the effects they could have on tourism and the idea of encouraging private entities to cooperate with the State. I take some issue with the statements of fact that are in Senate Joint Resolution No. 1. I disagree with a few items so I will be voting against it.

SENATOR BROWER:

Thank you, Mr. President. I am curious if the sponsor, or someone representing the Senate Committee on Natural Resources, can tell us if there was any testimony in opposition to Senate Joint Resolution No. 1 at the hearing? Perhaps my colleague from Senate District No. 16 is the only individual concerned with parts of the bill?

SENATOR FORD:

Yes, there was indeed a hearing on Senate Joint Resolution No. 1. It was one of the first hearings of the Session. What is in front of you today is a grand compromise. It came out of the Senate Committee on Natural Resources with unanimous support because we included everyone's input. I appreciate the remarks of my colleague from Senate District No. 16, but please understand, the Committee worked with diligence to make certain that what came out of Committee in this resolution would be generally acceptable to all.

SENATOR KIECKHEFER:

Thank you, Mr. President. I would like to respond to my colleague from Senate District No. 15. I did not have a chance to testify in the hearing on Senate Joint Resolution No. 1 in the Senate Committee on Natural Resources. I will say, however, I commend the Chair of the Senate Committee on Natural Resources because he does take the opinions of all into account and ensures unanimity.

SENATOR ROBERSON:

I support horses, and I support Senate Joint Resolution No. 1.

SENATOR BROWER:

I assume the hardworking, Solomon-like Chair of the Senate Committee on Natural Resources fully endorses this bill and encourages our support?

SENATOR FORD:

Yes, I wholeheartedly endorse Senate Joint Resolution No. 1, as amended, as a grand compromise that encompasses the input of everyone who came to testify. I am very pleased with the work we have put out of the Committee here, and I urge your support.

Roll call on Senate Joint Resolution No. 1:

YEAS—18.

NAYS—Kieckhefer, Smith—2.

EXCUSED—Segerblom.

Senate Joint Resolution No. 1 having received a constitutional majority, Mr. President declared it passed, as amended.

Resolution ordered transmitted to the Assembly.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Revenue and Economic Development, to which was referred Senate Bill No. 165, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and re-refer to the Committee on Finance.

RUBEN J. KIHUEN, *Chair*

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 18, 2013

The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the eligibility for exemption of: Senate Bill No. 510.

MARK KRMPOTIC
Fiscal Analysis Division

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 510—AN ACT relating to education; temporarily delaying the statutory deadline for notifying certain school district employees of reemployment status for the 2013-2014 year; and providing other matters properly relating thereto.

Senator Smith moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Finance.

Motion carried.

REMARKS FROM THE FLOOR

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

SENATOR DENIS:

Thank you, Mr. President. I just did the math and it was 22 years ago that my oldest child started kindergarten at age five. I went down to the school and they were having a meeting for parents. I am the kind of person who, instead of sitting back and complaining, steps up to do something when hearing something needs to be fixed. I raised my hand that day and said that I wanted to help. That was my introduction to the Parent Teacher Association.

Before long I was raising my hand to become the President of the Parent Teacher Association at that school. I remember coming on a trip to the Nevada Legislature—I don't recall sitting on the Senate side of the building; we sat in on the Assembly. We talked to the Legislators about what we thought was important.

My colleague from Senate District No. 13, who sits next to me, was one of the parents here with me when the Parent Teacher Association would come to the Legislature. Some of our guests were also there. We came and learned about the legislative process.

The other day I spoke about libraries and how important they were to me; the Parent Teacher Association was my introduction to the Legislature. The things we do here in the Legislature are so important for our kids. It is important that groups like the Parent Teacher Association come here and talk to us Legislators. I always look forward to the opportunity to have the Parent Teacher Association here. I am so thankful for the things I learned being a part of it: how to run a meeting and more. I would not be here today if it wasn't for the things I learned during my time with Parent Teacher Association. I am thankful to have them here with us today.

MR. PRESIDENT:

Thank you, Parent Teacher Association representatives. We welcome you to the Senate floor. We appreciate all you do for our schools. Thank you for being here.

SENATOR SMITH:

I would like to echo the remarks made by the Majority Leader about the Parent Teacher Association. I would not be here if it wasn't for the Parent Teacher Association. Part of that is because of the leadership programs, but also my interests peaked because of the organization. I learned very quickly when my oldest child started school that I was concerned about the schools across town in addition to the one that my child was attending. The Parent Teacher Association provided me the opportunity to get involved and taught me much about education and policy in addition to leadership. I am very happy to have guests in the Chamber today who are with the Parent Teacher Association.

I would also like to thank the Body for all of the kind remarks today concerning the John Marvel memorial resolution and for all of the kindness extended to the Marvel family. They asked if I would please relay to you that Willie Marvel is in her last days, perhaps hours. They asked that we please keep her and the family in our thoughts and prayers over the next few days.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Brower, the privilege of the Floor of the Senate Chamber for this day was extended to Delanie Slagle and Jacqueline Slagle.

On request of Senator Cegavske, the privilege of the Floor of the Senate Chamber for this day was extended to Shari Andreasen, Lynn Hettrick and Adam Johnson.

On request of Senator Denis, the privilege of the Floor of the Senate Chamber for this day was extended to Steve Abba, Amber Andreasen, Sharon Andreasen, Toni Elam, Gary Ghiggeri, Christine Huggins, Leah Korona, Lisa Krasner, Anne Lacala, Valerie Lauinger, Miah Lee, Dan Miles, Dustin Marvel, Johnnie Marvel, Dylan McGovern, Beth Mundo, Deanna Paulman, Amanda Phelps, Daren Phelps, Mark Stevens, Brenda Talley Kimberly Tate, Amanda Tull and Adriane Zaniewski.

On request of Senator Kieckhefer, the privilege of the Floor of the Senate Chamber for this day was extended to the Hunsberger Elementary School students: Carly Beeg, Carson Billings, Eliza Bowen, Madison Callahan, Nikki Christie, Ryan Day, Harrison Desarle, Haley Estipona, Ava Gotchy, Morgan Harrison, Nick Hosilyk, Harris Hurley, Cameron King, Piper Klefman, Autumn McCuin, Baylee Mee, Teyvin Broadbent, Jack Nicely, Ben Palmer, Ivey Quintero, Evan Richardson, Ethan Rost, Ashton Sady, John Snelgrove, Brooks Watson, Jasmine Wells, Allison Christy, Samantha Clark, Joseph Curtis, Carter Dodd, Connor Dugan, Kallie Grady, Savannah Green, Layla Hansen, Luke Jackson, Taylor Jensen, Kole Johnson, Colin Klein, Joseph Kretzschmar, Morgan Louie, Ryan Mack, William McGee, Ethan Moreno, Hudson Neal, Chase Nelson, Alana Pankopf, Madison Rund, Sean Sady, Anika Schauss, Noamiti Selby, Taylor Singleton, Tara Spencer, Blake Watson, Hayden Wittman, Nick Slagle and Pat Slagle.

On request of Senator Settlemeyer, the privilege of the Floor of the Senate Chamber for this day was extended to the Rite of Passage Charter School students: Audrianna Contreras, Brianna Dominguez, Aleigha Freitas, Roxy Garcia, Alexis Holman, Annays Jureidine, Martha Morales, Destinee Moreno, Angela Perez, Janesa Ramirez, Robyn Rubio, Crystalann Smith and Jessica Wilson.

On request of Senator Smith, the privilege of the Floor of the Senate Chamber for this day was extended to Ellie Layton, Chris Slagle, Dave Slagle and Michelle Slagle.

Senator Denis moved that the Senate adjourn until Friday, April 19, 2013, at 11:00 a.m. and that it do so with prayers and thoughts for the Marvel family and particularly for Willie.

Motion carried.

Senate adjourned at 4:23 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate