

THE ONE HUNDRED AND SEVENTEENTH DAY

CARSON CITY (Friday), May 31, 2013

Senate called to order at 12:22 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

O' Gracious God, at this moment the Senators and the great State of Nevada humbly ask for Your help and guidance as we come to the close of this Session. Make this a sacred time when we become aware of our need for Your guidance.

Often we pray for that which is already ours, neglected and unused. Sometimes we pray for that which can never be ours, and sometimes for that which we must do for ourselves. How many times we never pray at all, and then we work ourselves to death to earn something that is ours for the asking. Help us to understand that faith without works is dead, and that works without faith can never live.

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 Natural Resources, to which was referred Assembly Bill No. 125, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

AARON D. FORD, *Chair*

MESSAGES FROM THE GOVERNOR

OFFICE OF THE GOVERNOR

CARSON CITY, NEVADA, May 30, 2013

THE HONORABLE MO DENIS, *Senate Majority Leader,*

Legislative Building, 401 South Carson Street, Carson City, Nevada 89701

DEAR SENATOR DENIS:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill No. 180, which is entitled:

"AN ACT relating to employment practices; requiring a court to award certain relief to an employee injured by certain unlawful employment practices under certain circumstances; and providing other matters properly relating thereto."

Senate Bill No. 180 revises existing State law related to unfair employment practices. The bill requires a State court to award remedies for employment discrimination that are consistent with those available in federal court under Title VII of the Civil Rights Act of 1964 ("Title VII"), including, without limitation, damages, lost wages and benefits, costs and attorney's fees. Currently, State law provides that individuals harmed by an unlawful employment practice are limited to a maximum of two years of lost wages and actual damages.

Senate Bill No. 180 has merit, particularly with respect to its application to forms of discrimination that are not protected under federal law, such as sexual orientation discrimination. However, the bill goes too far by exposing employers to a wide range of damages and fees.

Although Senate Bill No. 180 seeks to offer remedies similar to those available in federal court under Title VII, in practice, the bill adds compensatory and punitive damages to State claims that have no federal parallel. Additionally, the bill's application of Title VII remedies "without limitation" will arguably override State law that prohibits an award of punitive damages against a public entity. Furthermore, even if identical remedies were applied in both State and federal court, the application of those remedies may be inconsistent, as the State and federal laws differ both procedurally and substantively. Lastly, most states that have chosen to expand remedies for state claims of employment discrimination have not included punitive damages, which are usually not covered by employment practice liability policies.

For these reasons, I veto this bill and return it to you without my signature and without my approval.

Sincerely,
BRIAN SANDOVAL
Governor of Nevada

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 30, 2013

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 50, 338; and Senate Bills Nos. 83, 142, 362, 416.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 138, 224, 260, 294.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 92, Amendment No. 898, and respectfully requests your honorable body to concur in said amendment.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that, for this legislative day, all necessary rules be suspended, and that all bills and resolutions, just reported out of Committee be immediately placed on the appropriate reading files, time permitting.

Motion carried.

By Senators Goicoechea, Atkinson, Brower, Cegavske, Denis, Ford, Gustavson, Hammond, Hardy, Hutchison, Jones, Kieckhefer, Kihuen, Manendo, Parks, Roberson, Segerblom, Settlemeyer, Smith, Spearman, Woodhouse; Assemblymen Ellison, Aizley, Elliot Anderson, Paul Anderson, Benitez-Thompson, Bobzien, Bustamante Adams, Carlton, Carrillo, Cohen, Daly, Diaz, Dondero Loop, Duncan, Eisen, Fiore, Flores, Frierson, Grady, Hambrick, Hansen, Hardy, Healey, Hickey, Hogan, Horne, Kirkpatrick, Kirner, Livermore, Martin, Munford, Neal, Ohrenschall, Oscarson, Pierce, Spiegel, Sprinkle, Stewart, Swank, Thompson, Wheeler and Woodbury:

Senate Concurrent Resolution No. 10—Memorializing former University Regent Dorothy Gallagher. —

WHEREAS, On May 15, 2013, the State of Nevada lost one of its most important voices in higher education and, most notably, a champion of students statewide; and

WHEREAS, Dorothy Sewell Gallagher, a fourth-generation Nevadan, was born on September 14, 1925, to J. Harvey and Mollie Sewell in Elko, Nevada, and in 1943 enrolled in the University of Nevada, where she met the love of her life, Thomas H. Gallagher; and

WHEREAS, During her years at the University, she was president of the Gamma Phi Beta

sorority, and after graduating with a bachelor's degree in zoology in the spring of 1947, she married Tom on August 30, 1947; and

WHEREAS, After spending four years in San Francisco while Tom attended dental school and giving birth to two of their sons, Dorothy and her family returned to Elko in 1951 where Tom began a dentistry practice with his father and brother; and

WHEREAS, In 1953, their youngest son was born, and Dorothy immersed herself in motherhood and the day-to-day operations of the family ranches in Lamoille, Pine Valley and Diamond Valley; and

WHEREAS, After the ranches were sold in 1979, Dorothy was elected to her first of many terms as a member of the Board of Regents of the University of Nevada in 1980; and

WHEREAS, Dorothy Gallagher served with distinction and honor as a Regent for an unprecedented 28 years from 1980 to 2002, and from 2004 to 2010, and her tenure included serving as Chair of the Board of Regents as well as Chair of more than a dozen committees; and

WHEREAS, This esteemed Nevadan steadfastly represented 11 rural counties, as her district spanned the State from the Idaho border to Pahrump; and

WHEREAS, Dorothy Gallagher's wisdom and foresight were instrumental in the creation and development of Great Basin College in Elko and bringing in baccalaureate programs to the rural institution as she helped to plan and develop Nevada's first state college in 2002, which now boasts an enrollment of over 3,000 students with 35 majors and minors; and

WHEREAS, A committed supporter of mining education, she became the first woman honored with the Mining and Metallurgical Society of America's Gold Medal in 2009; and

WHEREAS, The Dorothy S. Gallagher Great Basin Environmental Research Laboratory of the Desert Research Institute bears her name in recognition of her efforts to secure funding to construct the multidisciplinary research facility; and

WHEREAS, Dorothy Gallagher was actively involved in her community, serving as a member of the Board of Directors of the Nevada National Bank, the Elko County Hospital Board of Trustees and the Board of Directors of Vitality House, and for her efforts in health services outreach, she was named the Rural Nevadan Who Dares to Care by the University of Nevada School of Medicine in 1994; and

WHEREAS, Dorothy's countless accolades include being recognized as a University of Nevada Distinguished Nevadan, University of Nevada Honorary Doctorate, University of Nevada Alumnus of the Year, as well as being included in the Junior Achievement of Northern Nevada's Business Leaders Hall of Fame and receiving the Nevada Women's Fund Hall of Fame Award for Education, the Elko General Hospital Legacy Award and the Nevada Hospital Association Trustee Excellence Award; and

WHEREAS, This incomparable inspirational leader and mentor dedicated her life to improving access to quality educational opportunities for all, and through her selfless service, improved the lives of Nevadans for generations to come; and

WHEREAS, Dorothy Gallagher is survived by her husband Thomas, sons Michael, Thomas and Frank, five grandchildren and three great-grandchildren; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the members of the 77th Session of the Nevada Legislature hereby recognize the exemplary achievements of this extraordinary woman and extend their deepest condolences to her family, colleagues and friends; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to Dorothy Gallagher's beloved husband, Dr. Thomas H. Gallagher.

Senator Goicoechea moved the adoption of the resolution.

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

SENATOR GOICOECHEA:

Thank you, Mr. President. It is my pleasure and truly an honor to be here today to pay tribute to a great lady. The last time I saw Dorothy Gallagher was last fall. I owe her a lot.

Dorothy Sewell Gallagher was a legendary and distinguished public official. She was a fourth-generation Nevadan who served on the Board of Regents of the Nevada System of Higher

Education with integrity and commitment from 1980 to 2010: 28 years of service. During her last decade of service, her district was made up of 11 counties. I have a sizable Senate District but nothing compared to what her district was as a Regent; it comprised 84 percent of the land mass of the State of Nevada. If her district was a state, it would have been the twelfth largest state in the Union; larger than the state of Idaho and 37 other states. It gives you an idea of the country she had to travel and the people she represented. Each and every one of us in the rural areas knew Dorothy Gallagher. She was there for us. She made it a point to stop and see us.

One of her greatest prides was the development of Great Basin College. I would be remiss if we do not carry that on for her. Great Basin College has more than 3,800 students in attendance today. It is an excellent campus with branch campuses in Battle Mountain, Ely, Pahrump and Winnemucca, as well as satellite centers in 20 additional rural communities. It now offers a four-year Bachelor's program in six different disciplines: elementary education, secondary education, social work, nursing, integrated studies and several technology areas. We all know mining is very dependent on Great Basin College and the legacy that Dorothy has left behind.

I have always admired Dorothy. Last fall when I was visiting Dorothy, her husband Tom was out doing his favorite pastime shooting squirrels in Pine Valley; you have to know Tom to really appreciate that. Dorothy did a great job regardless of the tough issues that were in front of her. She was the daughter of Harvey Sewell. He was a man unto himself, a legend in the banking industry. I neighbored the family when I was in Diamond Valley at Liberty Livestock, and when I was at the Murano Ranch, they were running the J.D. Ranch in Pine Valley. I have a lot of close family ties with their ranching operation. Dorothy was very committed to that until they sold the ranches; she found a void in her life and it was filled by higher education in Nevada. She did a tremendous job for us.

The State of Nevada, and we residents of rural Nevada, will be forever indebted to the leadership, judgment and vision that Dorothy provided us. To the family, we miss her. There are several guests here from the Nevada System of Higher Education, who will miss her even more than we miss her friendship.

SENATOR SMITH:

Thank you, Mr. President. I rise in support of Senate Concurrent Resolution No. 10. Having grown up in rural Nevada, I crossed paths with Dorothy Gallagher. I was a patient of Dr. Gallagher's in my younger life. I cannot even begin to articulate what I believe she contributed to this State. Rural Nevada aside—everyone benefitted from what Dorothy Gallagher brought to this State. Her passion, her wisdom and how much she cared about what she was doing served us all very well over the years. For myself, having spent a lot of time in rural Nevada, having been a rural school board member and living in Washoe County, I personally witnessed time and time again how lucky we were to have someone like her crusading on whatever issue it may have been. The State is so much better off because of the work she contributed. I thank the family for sharing her with us because I am sure she sacrificed a lot to do the job she did. I am very grateful for that.

SENATOR CEGAUSKE:

Thank you, Mr. President. I want to rise also and thank Tom Gallagher. It was my pleasure to get to know Dorothy through the educational system. Listening to my colleague from Senate District No. 13, I was reminded of the phone calls I would get from Dorothy. When there was an issue up—something she really believed in—she had my cell phone number and would call. I remember the first time she called. I listened to the explanation as to why she wanted support on a particular issue and I really appreciated talking with her. I learned a lot from her over the years. I, too, want to thank you, her family, for sharing her with us. I have so much respect for Dorothy. It was so nice to see her in the halls. And those phone calls meant a lot.

MR. PRESIDENT:

I want to thank the family of Dorothy Gallagher. I first met her about 25 years ago, on Labor Day weekend, in Elko. I was with her dear friend Barbara Vucanovich, who was shaped with the same special mold. Dorothy was telling me which horses to bet on at the racetrack on that weekend. She was extraordinary. She knew right from wrong, and she was not shy to tell others what was right and wrong, in her very simple and elegant way. I know this is a time of

great sorrow. We will miss her. May we all be comforted by the fact that she had such an extraordinary life and leaves such an amazing legacy. Our hearts go out to the entire family and all that she touched. Thank you so very much for sharing your mom and your mother-in-law with the State of Nevada.

Resolution adopted.

Senator Goicoechea moved that all necessary rules be suspended and that Senate Concurrent Resolution No. 10 be immediately transmitted to the Assembly.

Motion carried unanimously.

Resolution ordered transmitted to the Assembly.

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

Senate in recess at 12:42 p.m.

SENATE IN SESSION

At 12:44 p.m.

President Krolicki presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 138.

Senator Smith moved that the bill be referred to the Committee on Revenue and Economic Development.

Motion carried.

Assembly Bill No. 224.

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

Motion carried.

Assembly Bill No. 260.

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

Motion carried.

Assembly Bill No. 294.

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

Motion carried.

Assembly Bill No. 338.

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

Motion carried.

Assembly Bill No. 501.

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

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 125.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 320.

Bill read third time.

Remarks by Senators Hardy and Denis.

SENATOR HARDY:

Thank you, Mr. President. Senate Bill No. 320 prohibits a school district board of trustees, the governing body of a charter school or a school principal from barring a pupil with diabetes from enrolling in any public school. The measure further prohibits requiring the pupil's parent to provide services or assistance to the child for the management of his or her diabetes while on school grounds or participating in school activities. It establishes a process by which a child can manage his or her diabetes during the school day, and further requires the State Board of Education, in cooperation with the State Board of Nursing, to adopt regulations necessary to comply. These regulations must be in place on or before January 1, 2014. The bill is effective on July 1, 2013, for the purpose of adopting regulations and performing any necessary preparatory tasks, and on January 1, 2014, for all other purposes.

SENATOR DENIS:

Thank you, Mr. President. I rise in support of Senate Bill No. 320. I appreciate my colleague from Senate District No. 12. He has done a lot of work on this. We both had the same idea, and we decided to work on this together. He did all of the heavy lifting. This bill will help kids in our schools that have diabetes. They will be able to get the care they need. I urge your support.

Roll call on Senate Bill No. 320:

YEAS—21.

NAYS—None.

Senate Bill No. 320 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 452.

Bill read third time.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Senate Bill No. 452 allows the Board of Trustees for the Fund for Hospital Care to enter into an agreement with the Division of Health Care Financing and Policy to transfer money from the Fund to the Division to be used to provide enhanced rates of reimbursement for hospital care provided to recipients of Medicaid or to make supplemental payments to the hospital for the provision of such hospital care through increased federal financial participation and to satisfy any portion of the obligation of a county to pay the nonfederal share of certain expenditures relating to long term care. The transfer of money from the Fund would continue until the federal government approves reverting to the previous rate of reimbursement or payments.

The bill requires that beginning on January 1, 2014, and continuing each year thereafter, the Board of County Commissioners of each county shall remit to the State an amount equal to the amount collected by each county pursuant to Section 340 of Chapter 439B of *Nevada Revised*

Statutes for the previous fiscal year to the Supplemental Account. The bill also creates the Hospital Assessment Account. If an agreement is entered into between the Board and the Division, certain hospitals may be required to pay an annual assessment to the account to provide reimbursement or partial reimbursement to hospitals for uncompensated hospital care. Any money remaining in the Hospital Assessment Account at the end of a fiscal year must be reimbursed to each hospital that paid the assessment in an amount proportional to the assessment paid. The bill becomes effective upon passage and approval. This is a good bill. I encourage you to vote in favor of it.

Roll call on Senate Bill No. 452:

YEAS—21.

NAYS—None.

Senate Bill No. 452 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 517.

Bill read third time.

Remarks by Senators Denis, Woodhouse, Jones, Hammond and Kieckhefer.

SENATOR DENIS:

Thank you, Mr. President. Senate Bill No. 517 appropriates \$1 million in each fiscal year of the 2013-15 Biennium from the State General Fund to the Department of Administration for distribution to the nonprofit organization Teach For America for recruitment and training costs of approximately 50 new teachers in the Clark County School District. This legislation requires Teach for America to provide annual reports over the 2013-15 Biennium to the Interim Finance Committee describing how the General Fund appropriations were expended. This bill becomes effective on July 1, 2013. I urge your support.

SENATOR WOODHOUSE:

Thank you, Mr. President. I stand, today, in support of Senate Bill No. 517. However, I am conflicted on this bill. I would like to share a couple of reasons why I support the bill and a couple of reasons why I am concerned. The bill allows \$2 million to be made available to the Clark County School District to fund Teach For America which will bring an additional 50 teachers into the classrooms. I have been told that they will be looking to fill those positions that are difficult to fill: math, science and special education. For years, these positions have been difficult to fill. Also, these individuals will be placed in at-risk schools. The other positive that I support is the young people who are coming through Teach For America are young, enthusiastic and working with our most at-risk populations. This is positive for those students. Those are reasons why I support the bill.

On the other side, I am concerned about the preparation that these young people have. They are learning on the job, which is not a bad thing. But, I am concerned they have not had enough time really learning and having the opportunity through student teaching under the mentorship of professional educators. This allows them to really observe and practice the art of teaching which is embodied in all of those methods and courses that educators take. This is a bill, which under these circumstances and in these days of not enough money for our schools, that we have to take advantage of. This is one opportunity to do that. I do urge you to vote in support of Senate Bill No. 517. However, as Nevada gets stronger, our school districts can move forward in providing qualified professional educators—those highly qualified people that we want in our schools. I encourage Teach For America to encourage their young teachers to stay in Nevada, to stay in the teaching profession, instead of, after a couple of years, returning to their home states. We do need young blood and young, enthusiastic and energetic teachers in front of our students. Again, I encourage your support. In time, we will have the staff that we need in all our schools to teach our students in ways that make those opportunities for our students the best they can be.

SENATOR JONES:

Thank you, Mr. President. Like my colleague from Senate District No. 5, I do have some trepidation about Senate Bill No. 517. But, I will be supporting it because the money will be going to the Clark County School District. I was elected because people wanted me to come here and make sure more money goes into our schools. This is a bill that will make sure more monies go into the schools that benefit my community in Senate District No. 9. I understand the money will be used to leverage additional funds from private sources. So, it is not just \$2 million, but, hopefully, \$10 million or more going into our schools in Clark County. I urge your support of this bill.

SENATOR HAMMOND:

Thank you, Mr. President. I rise in support of Senate Bill No. 517. I would like to echo the remarks of my colleague from Senate District No. 9. The money we are putting into this program will also bring additional dollars into the State, especially to southern Nevada where it is greatly needed. I spoke to a constituent of mine a couple of weeks ago who came to this State because of this program. He is one of the young teachers who came to Nevada as part of the Teach For America program. He has since stayed, and he is teaching now. He is helping to develop the curriculum engine which many teachers know is a process that we are using now as a way to prepare all of our lessons. He is instrumental in that process. He encouraged me to vote in support of this bill. He believes it has brought several of the colleagues he works with now and who have remained here since he arrived. I encourage you also to give a "yes" vote to this bill.

SENATOR KIECKHEFER:

Thank you, Mr. President. Under the logic of my colleague from Senate District No. 9, I should vote against this bill since all of the money is going outside of my district and to southern Nevada. But, I will not because I think it is a valuable program. Teach For America does a tremendous job of getting highly motivated, young educators into some of our most at-risk and needy schools. I would be remiss if I did not point out that we had an incentive program for these positions that we just stripped out of the budget. We have talked about this a lot in the money committees this Session. The programs we have had in place have not necessarily worked in attracting teachers to these schools.

One thing we should take a hard look at is the way we put our value on the different components of education. Under the way we fund education right now, through the contracts that are in place, two people with equal credentials: the individual who is teaching math at a high-risk, high population of English Language Learners gets paid the exact same amount as a physical education teacher at an affluent school. I do not know that those have equal value in the education of our children. As long as we continue to push everyone into the same category and value everybody the same, we will not adequately reflect what we want to achieve out of our education system. I support this bill. Teach For America is an excellent program. But, it is also a statement about how we allocate our resources in the grand scheme of things.

Roll call on Senate Bill No. 517:

YEAS—20.

NAYS—Settelmeyer.

Senate Bill No. 517 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that all necessary rules be suspended, and that Senate Bills Nos. 320, 452, 517, be immediately transmitted to the Assembly.

Motion carried.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 493.

The following Assembly Amendment was read:

Amendment No. 647.

"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; revising provisions relating to bona fide purchasers and encumbrancers of real property; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

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 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 : (1) requires that certain written notice of the proposed action be provided to each holder of a beneficial interest in the loan or an ownership interest in the real property; and (2) 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.

Existing law provides that a conveyance of any estate or interest in lands, and any charge upon lands, is void if it is made with the intent to defraud prior or subsequent purchasers of the same lands. (NRS 111.175) Under existing law, such a conveyance or charge is not deemed fraudulent in favor of certain subsequent purchasers, unless the subsequent purchaser was privy to the fraud intended. (NRS 111.180) Section 3.5 of this bill: (1) defines the circumstances under which a purchaser of an estate or interest in real property is a bona fide purchaser of the property; and (2) provides that a conveyance of an estate or interest in real property, or a charge upon real property, is not deemed fraudulent in favor of a bona fide purchaser unless the subsequent purchaser had actual knowledge, constructive notice or reasonable cause to know of the intended fraud.

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

Section 1. (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 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 ~~§~~, 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. A person designated to act pursuant to subsection 1 on behalf of the holders of the beneficial interest in a loan or the ownership interest in real property shall, not later than 30 days before the date on which the holders will determine whether or not to act pursuant to subsection 1, send a written notice of the action to each holder of a beneficial interest or ownership interest at the holder's last known address, by a delivery service that provides proof of delivery or evidence that the notice was sent. The written notice must state:

(a) The actions that will be taken on behalf of the holders who consent to an action pursuant to this section, if 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 act pursuant to subsection 1;

(b) The actions that will be taken on behalf of the holders who do not consent to an action pursuant to this section, if 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 act pursuant to subsection 1; and

(c) The amount of the costs or, if an amount is unknown, an estimate of the amount of the costs that will be allocated to, or due from, the holder and deducted from any proceeds owed to the holder.

3. 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.}~~ 4. Any action which is taken pursuant to subsection 1 must be in writing.

~~{3.}~~ ~~{4.}~~ 5. 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 ~~[-~~

~~3-]~~ 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 107.077, 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 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 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 107.077; 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 107.077;

(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. 3.5. NRS 111.180 is hereby amended to read as follows:

111.180 1. Any purchaser who purchases an estate or interest in any real property in good faith and for valuable consideration and who does not have actual knowledge, constructive notice of, or reasonable cause to know that there exists a defect in, or adverse rights, title or interest to, the real property is a bona fide purchaser.

2. No ~~[such]~~ conveyance ~~[of an estate or interest in real property,~~ or charge ~~[upon real property,~~ shall be deemed fraudulent in favor of a ~~[subsequent] bona fide purchaser [who shall have legal notice thereof at the time of the purchase by the subsequent purchaser,]~~ unless it ~~[shall appear]~~ *appears* that the ~~[grantee]~~ *subsequent purchaser* in such conveyance, or person to be benefited by such charge, ~~[was privy to]~~ *had actual knowledge, constructive notice or reasonable cause to know of* the fraud intended.

Sec. 4. This act becomes effective on July 1, 2013.

Senator Atkinson moved that the Senate concur in the Assembly Amendment No. 647 to Senate Bill No. 493.

Motion carried by a constitutional majority.

Bill ordered enrolled.

RECEDE FROM SENATE AMENDMENTS

Senator Kihuen moved that the Senate do not recede from its action on Assembly Bill No. 66, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Kihuen, Kieckhefer and Parks as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 66.

RECEDE FROM SENATE AMENDMENTS

Senator Parks moved that the Senate do not recede from its action on Assembly Bill No. 283, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Spearman, Parks and Goicoechea as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 283.

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

Motion carried.

Senate in recess at 1:14 p.m.

SENATE IN SESSION

At 5:41 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which was referred Assembly Bill No. 226, 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 Finance, to which was referred Senate Bill No. 516, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 58, 294, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DAVID R. PARKS, *Chair*

Mr. President:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 139, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID R. PARKS, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Concurrent Resolution No. 9, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and be adopted as amended.

Also, your Committee on Legislative Operations and Elections, to which was referred Assembly Bill No. 412, 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 Legislative Operations and Elections, to which was referred Senate Resolution No. 9, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

PAT SPEARMAN, *Chair*

Mr. President:

Your Committee on Transportation, to which were referred Assembly Bills Nos. 336, 454, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARK A. MANENDO, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 31, 2013

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 626 to Assembly Bill No. 84; Senate Amendment No. 736 to Assembly Bill No. 207; Senate Amendment No. 674 to Assembly Bill No. 212; Senate Amendment No. 785 to Assembly Bill No. 225; Senate Amendment No. 737 to Assembly Bill No. 240; Senate Amendment No. 828 to Assembly Bill No. 377; Senate Amendment No. 739 to Assembly Bill No. 395.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendments Nos. 673, 829, 867 to Assembly Bill No. 202; Senate Amendment No. 764 to Assembly Bill No. 223; Senate Amendment No. 639 to Assembly Bill No. 262; Senate Amendments Nos. 740, 888 to Assembly Bill No. 313; Senate Amendment No. 653 to Assembly Bill No. 339; Senate Amendment No. 754 to Assembly Bill No. 378; Senate Amendment No. 706 to Assembly Bill No. 415.

Also, I have the honor to inform your honorable body that the Assembly on this day receded from its action on Senate Bill No. 9, Assembly Amendment No. 593; Senate Bill No. 436, Assembly Amendment No. 788.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 38, Assembly Amendment No. 682, and requests a conference, and appointed Assemblymen Cohen, Dondero Loop and Wheeler as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 49, Assembly Amendment No. 779, and requests a conference, and appointed Assemblymen Ohrenschall, Neal and Oscarson as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 176, Assembly Amendment No. 665, and requests a conference, and appointed Assemblymen Spiegel, Thompson and Hambrick as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 228, Assembly Amendment No. 780, and requests a conference, and appointed Assemblymen Ohrenschall, Daly and Oscarson as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 364, Assembly Amendment No. 722, and requests a conference, and appointed Assemblymen Neal, Healey and Woodbury as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 389, Assembly Amendment No. 749, and requests a conference, and appointed Assemblymen Bustamante Adams, Daly and Hansen as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 410, Assembly Amendment No. 775, and requests a conference, and appointed Assemblymen Benitez-Thompson, Martin and Duncan as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 425, Assembly Amendment No. 751, and requests a conference, and appointed Assemblymen Horne, Thompson and Hansen as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 450, Assembly Amendment No. 776, and requests a conference, and appointed Assemblymen Eisen, Martin and Oscarson as a Conference Committee to meet with a like committee of the Senate.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

WAIVERS AND EXEMPTIONS

WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Assembly Standing Committee on Taxation

For: Assembly Bill No. 508.

Revises provisions relating to taxation.

To Waive:

Subsection 2 of Joint Standing Rule No. 14.

Subsection 1 of Joint Standing Rule No. 14.2.

Subsections 1, 2, 3 and 4 of Joint Standing Rule No. 14.3.

Has been granted effective: Friday, May 31, 2013.

MOISES A. DENIS

Senate Majority Leader

MARILYN KIRKPATRICK

Speaker of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 9.

Resolution read.

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

Amendment No. 923.

"SUMMARY—Directs the Legislative Commission to appoint a committee to conduct an interim study regarding working conditions at state correctional institutions and facilities. (BDR R-1223)"

"SENATE CONCURRENT RESOLUTION—Directing the Legislative Commission to appoint a committee to conduct an interim study regarding working conditions at state correctional institutions and facilities."

WHEREAS, Our State needs safe, secure, efficient and effective correctional institutions and facilities for the proper functioning of our State's criminal justice system and for the maintenance of a well-functioning society in our State; and

WHEREAS, Safe, secure, efficient and effective correctional institutions and facilities cannot exist without the dedicated, hard-working correctional officers, employees and other ~~employees~~ persons who work in these potentially difficult, stressful and dangerous environments; and

WHEREAS, The correctional officers, employees and other ~~employees~~ of persons who work at this State's correctional institutions and facilities cannot do their work efficiently and effectively and maintain safe and secure environments in these institutions and facilities without appropriate staffing levels at the institutions and facilities, without well-designed policies and procedures governing the entire system of institutions and facilities and without well-monitored and supportive management practices in place at each institution and facility; and

WHEREAS, The staffing levels at this State's correctional institutions and facilities, the policies and procedures governing this State's system of correctional institutions and facilities, and the management practices at each institution and facility dramatically affect working conditions and should be regularly examined to ensure that they remain appropriate and effective for the physical safety and psychological support of correctional officers, employees and other ~~employees of~~ persons who work at this State's correctional institutions and facilities, in addition to ensuring that they remain appropriate and effective in providing safe, secure, efficient and effective correctional institutions and facilities for all offenders, all other persons associated with the institutions and facilities and all other members of the public; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Legislative Commission is hereby directed to appoint a committee to conduct an interim study of the working conditions at this State's correctional institutions and facilities to ensure that:

1. The staffing levels are adequate and appropriate;

2. The system-wide policies and procedures are appropriate and effective;

3. Appropriate and effective management practices are in place to protect the physical safety and to support the psychological well-being of all correctional officers, employees and other ~~[employees]~~ persons who work at the institutions and facilities; and

4. The system as a whole is providing the safe, secure, efficient and effective correctional institutions and facilities this State needs and deserves; and be it further

RESOLVED, That, as soon as practicable after July 1, 2013, the Legislative Commission shall appoint a committee composed of three members of the Senate and three members of the Assembly to conduct the study, one of whom must be appointed by the Commission to serve as Chair of the committee; and be it further

RESOLVED, That the committee shall consult with and solicit input from persons and organizations with expertise in matters relevant to this State's correctional institutions and facilities, including, without limitation, consulting with and soliciting input from correctional officers, employees and other ~~[employees of]~~ persons who work at the institutions and facilities; and be it further

RESOLVED, That in studying this State's correctional institutions and facilities, the committee shall consider, without limitation:

1. Other states' laws, staffing levels, policies, procedures and management practices relating to correctional institutions and facilities; and

2. The advisability of using staffing committees comprised of both persons who hold managerial positions and persons who hold nonmanagerial ~~[employees]~~ positions to develop staffing plans and to make recommendations for policies, procedures and management practices relating to this State's correctional institutions and facilities; and be it further

RESOLVED, That the committee appointed by the Legislative Commission to conduct this interim study shall submit a report of its findings, including, without limitation, any proposed changes to staffing levels, policies, procedures or management practices relating to this State's correctional institutions and facilities and any recommendations for legislation, to the 78th Session of the Nevada Legislature; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to each member of the Board of State Prison Commissioners and to the Director of the Department of Corrections.

Senator Spearman moved the adoption of the amendment.

Remarks by Senator Spearman.

Thank you, Mr. President. Senate Concurrent Resolution No. 9 creates an interim study of the working conditions at correctional facilities. Amendment No. 923 expands the study to include other persons who work at correctional facilities.

Amendment adopted.

Resolution ordered reprinted, engrossed and to the Resolution File.

Senate Resolution No. 9.

Resolution read.

Senator Spearman moved the adoption of the resolution.

Remarks by Senator Spearman.

Thank you, Mr. President. Senate Resolution No. 9 designates the Senators who will serve as the members of the Legislative Commission during the 2013-2014 Interim. The resolution also names the Senators who will serve as alternates for each of the Senate members of the Commission, and establishes a procedure to request attendance at the meeting of the Commission by an alternate whenever a member is unable to attend.

Resolution adopted.

Resolution ordered reprinted, engrossed and to the Resolution File.

SECOND READING AND AMENDMENT

Senate Bill No. 516.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 929.

"SUMMARY—Revises provisions relating to tobacco. (BDR 32-1224)"

"AN ACT relating to tobacco; revising provisions relating to the Master Settlement Agreement; revising provisions relating to manufacturers of tobacco products, importers, wholesale dealers and retail dealers of cigarettes; providing for the assignment to the State and the release to an Indian tribe of certain money placed into a qualified escrow fund by a manufacturer of tobacco products; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

On November 23, 1998, leading United States tobacco product manufacturers and the State of Nevada entered into a settlement agreement, entitled the "Master Settlement Agreement," which obligates the manufacturers, in return for a release of past, present and certain future claims against them, to: (1) pay substantial sums to the State; (2) fund a national foundation devoted to the interests of public health; and (3) make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking. In 1999, the Nevada Legislature enacted provisions requiring all manufacturers of tobacco products sold in this State to participate in the Master Settlement Agreement or to place certain money in escrow. (Chapter 370A of NRS) In 2005, the Legislature made a finding that violations of chapter 370A of NRS threatened the integrity of the Master Settlement Agreement and the fiscal soundness of the State and public health, and enacted procedural safeguards to aid in the enforcement of the provisions of chapter 370A of NRS. (NRS 370.600-370.705) This bill generally revises existing, and provides additional, procedures and licensing requirements to aid in the statutory enforcement of the Master Settlement Agreement.

Section 4 of this bill requires each wholesale dealer to maintain certain contact information with the Department of Taxation. Section 5 of this bill

requires the Department to adopt certain regulations relating to the suspension or revocation of certain licenses. Section 6 of this bill provides for the notification of wholesale dealers and retail dealers of cigarettes when a manufacturer or brand family of cigarettes is removed from the directory that lists all manufacturers that have provided current and accurate certifications and all brand families listed in those certifications. Section 7 of this bill provides that an importer is jointly and severally liable for certain escrow deposits. Section 8 of this bill authorizes the State to enter into an agreement with an Indian tribe to enforce, administer or implement certain provisions of statute.

Sections 9-18 and 21-26 of this bill generally revise certain existing provisions relating to the regulation of tobacco sales in this State for the purpose of aiding in the enforcement of the Master Settlement Agreement.

~~Sections 19 and 20 of this bill revise certain provisions governing products made from tobacco, other than cigarettes.~~

Sections 30 and 31 of this bill provide for the assignment or release of certain money placed into escrow from the sale of certain cigarettes.

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

Section 1. Chapter 370 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. *"Importer" means any person in a state or territory of the United States to whom cigarettes that are manufactured outside the United States are shipped, delivered or consigned for resale.*

Sec. 3. *"Qualified tribal land" means any real property:*

1. *For which legal title is vested in, or held in trust for the benefit of, an Indian tribe or an individual Native American, and which is subject to ~~any applicable~~ restrictions against alienation pursuant to federal law; ~~restricting or prohibiting alienation;~~ and*

2. *Over which an Indian tribe exercises governmental power.*

Sec. 4. *Each wholesale dealer shall:*

1. *For the purpose of receiving any notification from the Department pursuant to this chapter, maintain with the Department:*

(a) *A permanent mailing address; and*

(b) *An electronic mail address.*

2. *Provide written notice to the Department of any change in the information specified in subsection 1 not later than 10 days after the change.*

Sec. 5. *The Department shall adopt regulations establishing a procedure for the suspension and revocation of any license issued pursuant to NRS 370.001 to 370.430, inclusive, and sections 2 to 5, inclusive, of this act. In adopting the regulations required by this section, the Department shall consider the effect of any suspension or revocation of a license on the inventory of cigarettes that are in the stream of distribution at the time of suspension or revocation.*

Sec. 6. 1. *The Department shall notify each wholesale dealer when a manufacturer or brand family is added to or removed from the directory pursuant to NRS 370.675 by sending a notice to the mailing address or electronic mail address of the wholesale dealer provided to the Department pursuant to section 4 of this act.*

2. *A wholesale dealer shall, not later than 7 days after receiving a notice pursuant to subsection 1, provide:*

(a) *A copy of the notice to each retail dealer that is a customer of the wholesale dealer; and*

(b) *The Department with a list of each retail dealer to which a copy of the notice is provided pursuant to paragraph (a).*

3. *A retail dealer may, not later than 60 days after receiving a copy of a notice pursuant to subsection 2 that a manufacturer or brand family has been removed from the directory pursuant to NRS 370.675, sell any cigarettes in its possession from the manufacturer or of the brand family. The retail dealer shall, at the expiration of the 60-day period, turn over possession of any unsold cigarettes to the Department for disposal in the manner provided in subsection 4 of NRS 370.270.*

4. *A wholesale dealer shall not purchase cigarettes for resale from a manufacturer, or of a brand family, which has been removed from the directory by the Department, or for which the wholesale dealer receives a notice of removal from the Department, until the manufacturer or brand family is reentered in the directory by the Department.*

Sec. 7. 1. *An importer is jointly and severally liable for the escrow deposit due pursuant to NRS 370A.140 for each cigarette which is intended for sale in this State which the importer causes to be sent to a person who holds a license as a wholesale dealer or license as a retail dealer issued by the Department.*

2. *A nonparticipating manufacturer located outside the United States that conducts business in this State shall provide to the Attorney General on a form prescribed by the Attorney General a declaration from each importer that imports the cigarettes of the nonparticipating manufacturer which are intended for sale in this State stating that the importer accepts liability pursuant to subsection 1 and consents to the jurisdiction of the courts of this State for the purposes of enforcing this section.*

3. *As used in this section, "importer" has the meaning ascribed to it in section 2 of this act.*

Sec. 8. *The State may enter into an agreement with an Indian tribe to enforce, administer or otherwise implement any provision of this chapter or chapter 370A of NRS.*

Sec. 9. *NRS 370.001 is hereby amended to read as follows:*

370.001 *As used in NRS 370.001 to 370.430, inclusive, and sections 2 to 5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 370.005 to 370.055, inclusive, and sections 2 and 3 of this act have the meanings ascribed to them in those sections.*

Sec. 10. NRS 370.025 is hereby amended to read as follows:

370.025 "Contraband tobacco products" means any:

1. Counterfeit cigarettes;
2. Other counterfeit tobacco product; ~~or~~
3. *Cigarettes or "roll-your-own" tobacco offered for sale in this State by a manufacturer, or cigarettes or "roll-your-own" tobacco of a brand family, that is not listed in the directory created pursuant to NRS 370.675;*
4. *Cigarettes bearing a tribal stamp issued by the Department which are sold or offered for sale at a retail location that is not located on qualified tribal land; or*
5. Cigarettes or other tobacco product:
 - (a) Exported from or imported into this State, or mailed, shipped, delivered, sold, exchanged, transported, distributed or held for distribution within the borders of this State by any person in violation of any of the provisions of this chapter; ~~or~~
 - (b) In any way held in the possession or constructive possession of any person not authorized under this chapter to possess or constructively possess the cigarettes or other tobacco product ~~or~~; *or*
 - (c) *Being offered for sale in any form other than in an unopened package in violation of subsection 1 of NRS 202.2493.*

Sec. 11. NRS 370.070 is hereby amended to read as follows:

370.070 The provisions of NRS 370.001 to 370.430, inclusive, *and sections 2 to 5, inclusive, of this act* do not apply to:

1. Common carriers while engaged in interstate commerce which sell or furnish cigarettes on their trains, buses or airplanes;
2. A person entering this state with a quantity of cigarettes for household or personal use which is exempt from federal import duty; and
3. A duty-free sales enterprise as defined in 19 U.S.C. § 1555(b)(8)(D) that:
 - (a) Operates pursuant to the provisions of 19 U.S.C. § 1555(b); and
 - (b) To the extent it sells cigarettes, only sells cigarettes that are duty-free merchandise as defined in 19 U.S.C. § 1555(b)(8)(E).

Sec. 12. NRS 370.155 is hereby amended to read as follows:

370.155 1. Except as otherwise provided in this section, each licensed wholesale cigarette dealer shall furnish a bond executed by the wholesale cigarette dealer as principal, and by a corporation qualified under the laws of this state as surety, payable to the State of Nevada and conditioned upon the payment of all excise taxes required to be precollected by the wholesale cigarette dealer under the provisions of this chapter. Each bond must be in a principal sum equal to the largest amount of tax precollected by the wholesale cigarette dealer in any quarter of the preceding year, or if the information to establish that amount is not available, then in a sum required from a licensee operating under conditions deemed comparable by the Department. No bond may be for less than \$1,000. When cash or a savings

certificate, certificate of deposit or investment certificate is used, the amount must be rounded up to the next larger integral multiple of \$100.

2. Except as otherwise provided in this section, each licensed wholesale cigarette dealer who wishes to defer payment on the purchase of revenue stamps or metered machine impressions shall furnish a bond executed by the wholesale cigarette dealer as principal, and by a corporation qualified under the laws of this state as surety, payable to the State of Nevada and conditioned upon the payment of all deferred payments for revenue stamps and metered machine impressions. Each bond must be in a principal sum equal to the maximum amount of revenue stamps or metered machine impressions which the wholesale dealer may have unpaid at any time. No bond may be for less than \$1,000. When cash or a savings certificate, certificate of deposit or investment certificate is used, the amount must be rounded up to the next larger integral multiple of \$100.

3. In lieu of a bond, a licensed wholesale cigarette dealer may deposit with the Department, under such terms as the Department may prescribe, a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Department. The Department shall deposit all cash and bonds of the United States or of the State of Nevada received pursuant to this subsection with the State Treasurer as custodian.

4. Upon application and a satisfactory showing, the Department may increase or decrease the amount of a bond required by subsection 1 or 2, based on the amount of excise tax precollected or payments deferred, respectively, by the wholesale cigarette dealer.

5. The Department may waive the requirement of the bond required by subsection 1 or 2, whenever a licensed wholesale cigarette dealer has maintained a satisfactory record of payment of excise taxes or deferred payments, respectively, for a period of 5 consecutive years.

6. *A wholesale dealer is not entitled to a refund of any portion of money paid as a bond pursuant to this section if the wholesale dealer has failed to file a report required by this chapter or owes the Department any payment or penalty pursuant to this chapter.*

Sec. 13. NRS 370.170 is hereby amended to read as follows:

370.170 1. Except as otherwise provided in this chapter, it is unlawful for any person to give, sell or offer to give or sell any cigarettes in this state unless there is affixed to each of the *cigarette* packages ~~[, packets or containers an adhesive]~~ a Nevada cigarette revenue stamp ~~[or a similar stamp]~~ which is issued by the Department and affixed by a metered stamping machine approved by and registered with the Department *or any other method approved by the Department, and which is* for the amount of the tax on all of the cigarettes contained in the *cigarette* package . ~~[or other container.]~~

2. *Each cigarette package sold on qualified tribal land or by an Indian tribe or a member of a tribe for which the Department does not collect a state excise tax pursuant to NRS 370.515 must bear a tribal stamp issued by the Department.*

Sec. 14. NRS 370.190 is hereby amended to read as follows:

370.190 1. The Department may sell Nevada cigarette revenue stamps to a licensed dealer. As payment for the stamps, the Department shall deduct from the excise tax collected from the dealer the actual cost incurred by the Department for the stamps and for making the sale.

2. Payment for the revenue stamps or metered machine impressions must be made at the time of purchase unless the wholesale dealer has been authorized to defer payments by the Department. A wholesale dealer may apply to the Department for authorization to defer payments for revenue stamps or metered machine impressions at any time.

3. The Department may provide by regulation for ~~[payment]~~.

(a) *Payment* of the tax by manufacturers without the use of stamps on gifts or samples sent into Nevada when plainly marked "Tax Paid."

(b) *Any requirements for the purchase of stamps.*

Sec. 15. NRS 370.235 is hereby amended to read as follows:

370.235 1. The Department may adopt regulations establishing:

(a) Reporting requirements for manufacturers and wholesale dealers; and

(b) Procedures for the electronic submission of reports pursuant to any reporting requirements established under paragraph (a).

2. Any regulations adopted pursuant to subsection 1 relating to reporting requirements for manufacturers ~~[must]~~ *may* provide for submission to the Department periodic reports of:

(a) The quantity of cigarette packages that were distributed or shipped to another manufacturer or to a wholesale dealer within the borders of this State during the reporting period, and the name and address of each person to whom those products were distributed or shipped;

(b) The quantity of cigarette packages that were distributed or shipped to another facility of the same manufacturer within the borders of this State during the reporting period; and

(c) The quantity of cigarette packages that were distributed or shipped within the borders of this State to Indian tribes or instrumentalities of the Federal Government during the reporting period, and the name and address of each person to whom those products were distributed or shipped.

3. Any regulations adopted pursuant to subsection 1 relating to reporting requirements for wholesale dealers ~~[must]~~ *may* provide for submission to the Department periodic reports of:

(a) The inventory of stamped and unstamped cigarette packages held by the wholesale dealer for sale or distribution within the borders of this State on hand at the beginning of the reporting period;

(b) The inventory of cigarette packages held by the wholesale dealer for sale or distribution outside of the borders of this State on hand at the beginning of the reporting period;

(c) The quantity of stamped cigarette packages held for sale or distribution within the borders of this State that were received by the wholesale dealer from another person during the reporting period, and the name and address of each person from whom those products were received;

(d) The quantity of cigarette packages held for sale or distribution outside of the borders of this State that were received by the wholesale dealer from another person during the reporting period, and the name and address of each person from whom those products were received;

(e) The quantity of cigarette packages to which Nevada stamps were affixed that were distributed or shipped to another wholesale dealer or to a retail dealer within the borders of this State during the reporting period, and the name and address of each person to whom those products were distributed or shipped;

(f) The quantity of cigarette packages to which Nevada stamps were affixed that were distributed or shipped to another facility of the same wholesale dealer within the borders of this State during the reporting period;

(g) The quantity of stamped cigarette packages that were distributed or shipped within the borders of this State to Indian tribes or instrumentalities of the Federal Government during the reporting period, and the name and address of each person to whom those products were distributed or shipped;

(h) The quantity of cigarette packages held for distribution outside of the borders of this State that were distributed or shipped outside of the borders of this State during the reporting period;

(i) The inventory of stamped and unstamped cigarette packages held for sale or distribution within the borders of this State on hand at the end of the reporting period;

(j) The inventory of cigarette packages held for sale or distribution outside of the borders of this State on hand at the end of the reporting period;

(k) The number of each type of stamp on hand at the beginning of the reporting period;

(l) The number of each type of stamp purchased or received during the reporting period;

(m) The number of each type of stamp applied during the reporting period; and

(n) The number of each type of stamp on hand at the end of the reporting period.

4. Any reports required by regulations adopted pursuant to subsection 1 must be:

(a) Submitted on forms provided *by or in a format required* by the Department; and

(b) Provided separately for each of the facilities operated by the manufacturer or wholesale dealer.

5. In each report required by regulations adopted pursuant to subsection 1, the information required must be itemized so as to disclose clearly:

- (a) The quantities of stamped and unstamped cigarettes to which the report applies; and
- (b) The brand and style of cigarettes to which the report applies.

6. The reporting period for any reports required by regulations adopted pursuant to subsection 1 must be for a duration of not less than 1 month and not more than 3 months.

Sec. 16. NRS 370.250 is hereby amended to read as follows:

370.250 1. ~~{If any dealer in cigarettes upon which a precollected or advance tax is required to be paid fails to file any report required pursuant to NRS 370.240 with the Department or its agents on or before the date due, the Department may suspend the license of the dealer until the report is received and found to be correct.}~~ *The Department may temporarily suspend or permanently revoke a license as a wholesale dealer in accordance with the regulations adopted pursuant to section 5 of this act if the licensee:*

- (a) Fails to file or files an incomplete or inaccurate report or certification required by this chapter;*
- (b) Fails to pay any tax owed upon cigarettes required by this chapter;*
- (c) Fails to cure any shortfall for which the wholesale dealer is liable pursuant to NRS 370.683;*
- (d) Sells in this State, purchases or possesses any cigarettes or cigarette packages in violation of any provision of this chapter; or*
- (e) Imports into or exports from this State any cigarettes or cigarette packages in violation of any provision of this chapter.*

2. ~~{The}~~ *Except as otherwise provided in subsection 1 or 3, the Department may temporarily suspend or permanently revoke the license of any licensee for violating, or causing or permitting to be violated, any of the provisions of NRS 370.001 to 370.430, inclusive, and sections 2 to 5, inclusive, of this act or any regulations adopted for the administration or enforcement of any of those provisions.*

3. The Department shall permanently revoke the license of any licensee convicted of any felony pursuant to NRS 370.405.

Sec. 17. NRS 370.257 is hereby amended to read as follows:

370.257 1. Each manufacturer, wholesale dealer and retail dealer shall provide to the Executive Director and his or her designees and to the Secretary or his or her designee, upon request, access to all the reports and records required by NRS 370.001 to 370.430, inclusive ~~{,}~~, *and sections 2 to 5, inclusive, of this act.* The Department at its sole discretion may share the records and reports required by those sections with law enforcement officials of the Federal Government, this State, other states, Indian tribes, ~~{or}~~ international authorities ~~{,}~~ *or any data clearinghouse or similar entity established for the purposes of enforcing the provisions of NRS 370.600*

to 370.705, inclusive, and sections 6, 7 and 8 of this act or chapter 370A of NRS.

2. Except as otherwise provided in this subsection, the reports submitted by licensees pursuant to NRS 370.001 to 370.430, inclusive, and sections 2 to 5, inclusive, of this act are public records. Unless otherwise directed or ordered by a court of competent jurisdiction, any information contained in those reports about quantities of cigarettes by brand must not be released to anyone other than persons permitted access to those reports pursuant to subsection 1.

3. The Department may audit the records of each dealer to determine whether the manufacturer, wholesale dealer or retail dealer has complied with the provisions of NRS 370.001 to 370.430, inclusive ~~[]~~, and sections 2 to 5, inclusive, of this act.

Sec. 18. NRS 370.379 is hereby amended to read as follows:

370.379 1. The Department may suspend or revoke the license of a retail or wholesale dealer who violates the provisions of NRS 370.371 to 370.379, inclusive, or any regulation adopted thereunder, after notice to the licensee and a hearing as prescribed by the Department.

2. The Department, upon a finding that the licensee has failed to comply with any provision of NRS 370.371 to 370.379, inclusive, or any regulation adopted by the Executive Director, ~~[shall]~~ may, in the case of a first offender, suspend the license of the licensee for not less than 5 nor more than 20 consecutive business days. If the Department finds the offender has been guilty of willful and persistent violations, it may suspend for not more than 6 months or revoke the person's license.

3. Except as otherwise provided in NRS 370.698, a person whose license has been revoked may apply to the Department at the end of 1 year for a reinstatement of the license. The Department may reinstate the license if the Department determines that the licensee will comply with the provisions of this chapter and the regulations adopted by the Department.

4. A person whose license has been suspended or revoked shall not sell cigarettes or permit cigarettes to be sold during the period of suspension or revocation on the premises occupied by the person or upon other premises controlled by the person. The expiration, transfer, surrender, continuance, renewal or extension of a license issued pursuant to this chapter does not bar or abate any disciplinary proceedings or action.

Sec. 19. ~~[NRS 370.440 is hereby amended to read as follows:~~

~~370.440 As used in NRS 370.440 to 370.503, inclusive, unless the context otherwise requires:~~

~~1. "Products made from tobacco, other than cigarettes" means any tobacco of any description or any product made from tobacco other than cigarettes, including, without limitation, tobacco derived products and pasteurized tobacco products.~~

~~2. "Retail dealer" means any person who is engaged in selling products made from tobacco, other than cigarettes, to customers.~~

~~{2.} 3. "Sale" means any transfer, exchange, barter, gift, offer for sale, or distribution for consideration of products made from tobacco, other than cigarettes.~~

~~{3.} 4. "Ultimate consumer" means a person who purchases a product made from tobacco, other than cigarettes, for his or her household or personal use and not for resale.~~

~~{4.} 5. "Wholesale dealer" means any person who:~~

~~(a) Brings or causes to be brought into this State products made from tobacco, other than cigarettes, purchased from the manufacturer or a wholesale dealer and who stores, sells or otherwise disposes of those products within this State;~~

~~(b) Manufactures or produces products made from tobacco, other than cigarettes, within this State and who sells or distributes those products within this State to other wholesale dealers, retail dealers or ultimate consumers; or~~

~~(c) Purchases products made from tobacco, other than cigarettes, solely for the purpose of bona fide resale to retail dealers or to other persons for the purpose of resale only.~~

~~{5.} 6. "Wholesale price" means:~~

~~(a) Except as otherwise provided in paragraph (b), the established price for which a manufacturer sells a product made from tobacco, other than cigarettes, to a wholesale dealer before any discount or other reduction is made.~~

~~(b) For a product made from tobacco, other than cigarettes, sold to a retail dealer or an ultimate consumer by a wholesale dealer described in paragraph (b) of subsection {4.} 5, the established price for which the product is sold to the retail dealer or ultimate consumer before any discount or other reduction is made. (Deleted by amendment.)~~

Sec. 20. NRS 370.445 is hereby amended to read as follows:

370.445 1. *The Department shall issue a license as a wholesale dealer or a license as a retail dealer to a person who submits a complete application on a form prescribed by the Department and who otherwise complies with the applicable provisions of this chapter and any regulations adopted by the Department. The Department shall not charge any fee for the issuance of a license pursuant to this subsection.*

2. Except as otherwise provided in subsection ~~{2.} 3~~, a person shall not engage in the business of a wholesale dealer or retail dealer in this State unless the person first obtains a license as a wholesale dealer or retail dealer from the Department. A person may be licensed as a wholesale dealer and as a retail dealer.

~~{2.} 3. A person who wishes to engage in the business of a retail dealer is not required to obtain a license as a retail dealer pursuant to this section if the person is licensed as a retail cigarette dealer pursuant to ~~this chapter.~~~~

~~3.} NRS 370.001 to 370.430, inclusive, and sections 2 to 5, inclusive, of this act.~~

4. *The Department may refuse to issue or renew, or may suspend or revoke, a license issued pursuant to this section for any violation of the provisions of NRS 370.440 to 370.503, inclusive.*

5. *The Department may adopt regulations prescribing the form and contents of an application for, or which are otherwise necessary for the issuance of, a license pursuant to this section.*

6. Any person who violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 21. NRS 370.600 is hereby amended to read as follows:

370.600 The Legislature finds that:

1. Violations of the provisions of chapter 370A of NRS threaten the integrity of the Master Settlement Agreement, the fiscal soundness of the State and public health.

2. The enactment of the procedural enhancements set forth in NRS 370.600 to 370.705, inclusive, *and sections 6, 7 and 8 of this act* will aid in the enforcement of the provisions of chapter 370A of NRS and thereby safeguard the Master Settlement Agreement, the fiscal soundness of the State and public health.

Sec. 22. NRS 370.605 is hereby amended to read as follows:

370.605 As used in NRS 370.600 to 370.705, inclusive, *and sections 6, 7 and 8 of this act*, unless the context otherwise requires, the words and terms defined in NRS 370.610 to 370.660, inclusive, have the meanings ascribed to them in those sections.

Sec. 23. NRS 370.665 is hereby amended to read as follows:

370.665 1. A manufacturer of tobacco products whose cigarettes are sold in this State, whether or not directly or through a distributor, retailer or similar intermediary or intermediaries shall, not later than April 30 of each year, execute and deliver to the Attorney General and the Department, on a form provided by the Department, a certification which certifies under penalty of perjury that, as of the date of that certification, the manufacturer of tobacco products is : ~~either:~~

(a) A participating manufacturer; or
 (b) In full compliance with subsection 2 of NRS 370A.140, including any quarterly installment payments required pursuant to NRS 370.690.

2. Except as otherwise provided in NRS 370.670:

(a) A participating manufacturer shall include in its certification pursuant to this section a list of its brand families. The participating manufacturer shall update that list at least 30 calendar days before it adds to or modifies its brand families by executing and delivering a supplemental certification to the Attorney General and the Department.

(b) A nonparticipating manufacturer shall, in its certification pursuant to this section:

(1) Include:

(I) A list of all of its brand families and the number of units sold for each brand family that were sold in the State during the preceding calendar year; ~~and~~

(II) A list of all of its brand families that have been sold in the State at any time during the current calendar year;

(III) The current mailing address of the nonparticipating manufacturer; and

(IV) A valid electronic mail address of the nonparticipating manufacturer;

(2) Indicate ~~[-, by an asterisk,]~~ any brand family sold in the State during the preceding calendar year that is no longer being sold in the State as of the date of the certification; and

(3) Identify, by name and address ~~[-, any]~~ :

(I) Any other manufacturer of those brand families in the preceding or current calendar year [-]; and

(II) Each wholesale dealer that sells or offers for sale in this State any brand family of the nonparticipating manufacturer.

➔ A nonparticipating manufacturer shall update the information required by this paragraph at least 30 calendar days before it adds to or modifies its brand families or sells or distributes cigarettes in this State through a new wholesale dealer by executing and delivering a supplemental certification to the Attorney General and the Department.

3. In addition to the requirements of subsection 2, the certification of a nonparticipating manufacturer pursuant to this section must certify:

(a) That the nonparticipating manufacturer is registered to do business in the State or has appointed an agent for service of process and provided notice thereof as required by NRS 370.680;

(b) That the nonparticipating manufacturer has:

(1) Established and continues to maintain a qualified escrow fund; and

(2) Executed a qualified escrow agreement governing the qualified escrow fund that has been reviewed and approved by the Attorney General;

(c) That the nonparticipating manufacturer is in full compliance with chapter 370A of NRS and any regulations adopted pursuant thereto;

(d) The name, address and telephone number of the financial institution where the nonparticipating manufacturer has established the qualified escrow fund required pursuant to chapter 370A of NRS and any regulations adopted pursuant thereto;

(e) The account number of that qualified escrow fund and any subaccount number for this State;

(f) The amount the nonparticipating manufacturer placed in that qualified escrow fund for cigarettes sold in the State during the preceding calendar year, the date and amount of each such deposit, and such evidence or verification as may be deemed necessary by the Department to confirm the information required by this paragraph; ~~and~~

(g) The amount and date of any withdrawal or transfer of money the nonparticipating manufacturer made at any time from that qualified escrow fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to chapter 370A of NRS and any regulations adopted pursuant thereto ~~[-]~~; and

(h) *That the nonparticipating manufacturer has submitted to the Attorney General a request or consent to the United States Department of the Treasury pursuant to 26 U.S.C. § 6103(c) authorizing the Alcohol and Tobacco Tax and Trade Bureau of the Department, or in the case of a foreign manufacturer, United States Customs and Border Protection of the United States Department of Homeland Security, to disclose to the Attorney General the federal excise tax returns of the manufacturer and each monthly operational report of the manufacturer reported on Alcohol and Tobacco Tax and Trade Bureau Form 5210.5, and all adjustments, changes and other amendments thereto.*

Sec. 24. NRS 370.680 is hereby amended to read as follows:

370.680 1. Any nonresident or foreign nonparticipating manufacturer or wholesale dealer that has not registered to do business in the State as a foreign corporation or other business entity must, as a condition precedent :

(a) *For a nonparticipating manufacturer, to having its brand families included or retained in the directory ~~[-]~~; or*

(b) *For a wholesale dealer, to selling cigarettes in this State,*

↪ appoint and continually engage without interruption the services of an agent in this State to act as its agent for the service of process on whom all process, in any action or proceeding against it concerning or arising out of the enforcement of this chapter ~~[-]~~ or chapter 370A of NRS, may be served in any manner authorized by law. ~~{Such service}~~

2. *Service upon an agent pursuant to this section constitutes legal and valid service of process on the nonparticipating manufacturer ~~[-]~~ or wholesale dealer. The nonparticipating manufacturer or wholesale dealer shall provide the name, address, phone number and proof of the appointment and availability of such agent to, and to the satisfaction of, the Attorney General and the Department.*

~~{2.}~~ 3. A nonparticipating manufacturer or wholesale dealer shall provide notice to the Attorney General and the Department at least 30 calendar days before the termination of the authority of an agent appointed pursuant to this section and shall provide proof to the satisfaction of the Attorney General and the Department of the appointment of a new agent not less than 5 calendar days before the termination of appointment of an existing agent. If an agent terminates his or her appointment as an agent, the nonparticipating manufacturer or wholesale dealer shall notify the Attorney General and the Department of that termination within 5 calendar days and include with that notification proof to the satisfaction of the Attorney General and the Department of the appointment of a new agent.

~~{3-}~~ 4. Any nonparticipating manufacturer ~~[whose]~~ or wholesale dealer which sells or purchases cigarettes ~~[are sold]~~ in this State and ~~[who]~~ which has not appointed and engaged an agent as required by this section shall be deemed to have appointed the Secretary of State as an agent and may be proceeded against in courts of this State by service of process upon the Secretary of State, except that the appointment of the Secretary of State as an agent does not satisfy the condition precedent for having the brand families of the nonparticipating manufacturer included or retained in the directory.

Sec. 25. NRS 370.685 is hereby amended to read as follows:

370.685 1. Not later than 20 calendar days after the end of each calendar quarter, and more frequently if so directed by the Department, each distributor shall submit such information as the Department requires to facilitate compliance with the provisions of NRS 370.600 to 370.705, inclusive, and sections 6, 7 and 8 of this act, including, without limitation, a list by brand family of the total number of cigarettes or, in the case of "roll-your-own" tobacco, the equivalent unit count, for which the distributor affixed stamps during the previous calendar quarter or otherwise paid the tax due for those cigarettes. The distributor shall maintain for at least 5 years, and make available to the Department, all invoices and documentation of sales of all cigarettes of nonparticipating manufacturers and any other information relied upon in reporting to the Department.

2. The Department may disclose to the Attorney General any information received pursuant to NRS 370.600 to 370.705, inclusive, and sections 6, 7 and 8 of this act and requested by the Attorney General for purposes of determining compliance with and enforcing the provisions of NRS 370.600 to 370.705, inclusive ~~{,}~~, and sections 6, 7 and 8 of this act. The Department and Attorney General shall share with each other the information received pursuant to the provisions of NRS 370.600 to 370.705, inclusive, and sections 6, 7 and 8 of this act and may share such information with other federal, state or local agencies only for purposes of enforcement of those provisions, the provisions of chapter 370A of NRS or the corresponding laws of other states.

3. The Department may require at any time from a nonparticipating manufacturer proof, from the financial institution in which that manufacturer has established a qualified escrow fund for the purpose of compliance with chapter 370A of NRS, of the amount of money in that fund, exclusive of interest, the amount and date of each deposit to that fund, and the amount and date of each withdrawal from that fund.

4. In addition to the information otherwise required to be submitted pursuant to NRS 370.600 to 370.705, inclusive, and sections 6, 7 and 8 of this act, the Department may, at any time, require a distributor or manufacturer of tobacco products to submit any additional information ~~[, including, without limitation, samples of the packaging or labeling of each brand family,]~~ or documentation as is necessary to enable the Department to

determine whether a manufacturer of tobacco products is *or will continue to be* in compliance with the provisions of ~~[NRS 370.600 to 370.705, inclusive.~~

~~5. Every distributor shall provide to the Department and update as necessary an electronic mail address for receiving any notifications required to carry out NRS 370.600 to 370.705, inclusive.] this chapter and chapter 370A of NRS.~~

Sec. 26. NRS 370.698 is hereby amended to read as follows:

370.698 1. The license of a wholesale dealer may be suspended or revoked if a similar license of the wholesale dealer is suspended or revoked in any other state based on an act or omission that would, if the act or omission had occurred in this State, be grounds for the suspension or revocation of the license of the wholesale dealer pursuant to NRS 370.379, unless the wholesale dealer demonstrates that the suspension or revocation of its license in the other state was effected without due process. A wholesale dealer whose license is suspended or revoked in this State pursuant to this subsection is eligible for reinstatement upon the earlier of the date on which the violation in the other state is cured or the date on which the license of the wholesale dealer is reinstated in the other state.

2. A nonparticipating manufacturer and its brand families may be denied listing in the directory or removed from the directory for any of the following reasons:

(a) The nonparticipating manufacturer is removed from the directory of another state based on an act or omission that would, if the act or omission had occurred in this State, be grounds for the removal of the nonparticipating manufacturer from the directory of this State pursuant to NRS 370.675, unless the nonparticipating manufacturer demonstrates that its removal from the directory of the other state was effected without due process. A nonparticipating manufacturer that is removed from the directory of this State pursuant to this paragraph is eligible for reinstatement to the directory upon the earlier of the date on which the violation in the other state is cured or the date on which the nonparticipating manufacturer is reinstated to the directory of the other state.

(b) The nonparticipating manufacturer is convicted of any crime relating to the manufacture, sale or distribution of tobacco products in this State or another state.

(c) The nonparticipating manufacturer fails to report the existence or result, including any conviction, of any investigation of the nonparticipating manufacturer which is known to the nonparticipating manufacturer regarding the commission of any crime relating to the manufacture, sale or distribution of tobacco products in this State or another state.

(d) The nonparticipating manufacturer fails to report any investigation of the nonparticipating manufacturer which is known to the nonparticipating manufacturer regarding any violation of the laws of any other state based on an act or omission that would, if the act or omission had occurred in this

State, be grounds for the removal of the nonparticipating manufacturer from the directory of this State pursuant to NRS 370.675.

(e) The nonparticipating manufacturer knowingly makes a false, material statement in any report, filing or other communication provided to this State pursuant to this chapter or chapter 370A of NRS.

(f) *The nonparticipating manufacturer has a shortfall or fails to make an escrow deposit that is due in another state or territory of the United States, has been given reasonable notice of the shortfall or failure and has failed to cure the shortfall or make the deposit within 30 days after receiving notice of the shortfall or failure.*

3. The provisions of NRS 233B.121 to 233B.150, inclusive, apply to:

(a) The suspension or revocation of the license of a wholesale dealer pursuant to subsection 1; and

(b) The removal of a nonparticipating manufacturer and its brand families from the directory pursuant to subsection 2.

Sec. 27. Chapter 370A of NRS is hereby amended by adding thereto the provisions set forth as sections 28 to 31, inclusive, of this act.

Sec. 28. *"Qualified tribal land" has the meaning ascribed to it in section 3 of this act.*

Sec. 29. *Any provision of this chapter or chapter 370 of NRS, or any amendment thereto, that causes any provision of this chapter or chapter 370 of NRS to fail to operate as a qualifying statute pursuant to the Master Settlement Agreement is void.*

Sec. 30. 1. *Notwithstanding the provisions of NRS 370A.150, a manufacturer that elects to deposit money into a qualified escrow fund pursuant to NRS 370A.140 may assign to the State the interest of the manufacturer in any money in the qualified escrow fund.*

2. *An assignment executed pursuant to subsection 1 is irrevocable and applies to any money and any interest or other appreciation earned on any money for which the manufacturer executes the assignment.*

3. *The parties to a qualified escrow agreement may amend the agreement for the purposes of executing an assignment pursuant to subsection 1.*

4. *An assignment executed pursuant to subsection 1 must be in writing and be signed by the assignee and the assignor or by an authorized agent or representative of the assignor. An assignment in writing which is duly executed becomes enforceable after a copy of the assignment is delivered to the Attorney General and the financial institution where the qualified escrow fund is maintained.*

5. *Nothing in this section operates to relieve a manufacturer from any obligation or duty imposed pursuant to this chapter or chapter 370 of NRS.*

Sec. 31. 1. *The State may release to an Indian tribe, pursuant to a compact with that tribe, not more than 50 percent of the amounts deposited into a qualified escrow fund pursuant to NRS 370A.140 for cigarettes sold on*

or after January 1, 2015, in a retail transaction to a consumer on the qualified tribal land of the tribe, if:

(a) The tribe is a federally recognized tribe or a tribe that was recognized by the State on or before January 1, 2012, and, in each case, has a reservation or colony in the State;

(b) The money to be released was timely deposited into escrow in compliance with NRS 370A.140;

(c) State excise tax or tribal excise tax was paid on the cigarettes;

(d) The release occurs not earlier than 1 year after the money is deposited into escrow;

(e) The money released is provided to the tribe itself and used only for the purpose of public safety on the qualified tribal land of the tribe or for social services for tribal members, including, without limitation, health care or education, and not used for any function that could directly or indirectly promote or reduce the costs of cigarette production, marketing or sales;

(f) The money released is not used in any way for the benefit of any manufacturer of tobacco products that is not a participating manufacturer under the Master Settlement Agreement or to facilitate cigarette sales by any such manufacturer of tobacco products; and

(g) The compact with the tribe provides that the taxing and stamping requirements and policies for cigarettes sold on the qualified tribal land of the tribe, including the applicability, amount, collection and refund of taxes, will not be different for any cigarettes of participating manufacturers than for any cigarettes of manufacturers of tobacco products that are not participating manufacturers, and the tribe is in compliance with these provisions of the compact.

2. The total amount released to all Indian tribes from escrow pursuant to this section in any 1 year must not exceed \$1 million in the aggregate.

3. This section applies only ~~if~~ to:

(a) The cigarettes ~~for which money would be released are manufactured by~~ of a manufacturer of tobacco products that existed in the United States market on or before June 1, 2012; and

(b) ~~The~~ A manufacturer of tobacco products involved in the production, distribution or sale of the cigarettes for which money would be released that is not a manufacturer, or an affiliate or successor of such manufacturer, ~~that is~~ affiliated with the Indian tribe or any member of the tribe to which the money would be released.

4. ~~Amounts deposited into a qualified escrow fund for cigarettes which are manufactured by a manufacturer of tobacco products that entered the United States market after June 1, 2012, may not be released under this section.~~

~~5~~ For the purposes of this section, an Indian tribe with qualified tribal land located in more than one state or territory of the United States is considered to have a reservation or colony in, and to be eligible for the

release of money pursuant to this section from, this State only if the largest portion of the qualified tribal land of the tribe is located within this State.

~~¶6.7~~ 5. *The Attorney General may withdraw from a qualified escrow fund the money released pursuant to this section. The manufacturers of tobacco products that elect to deposit money into a qualified escrow fund pursuant to NRS 370A.140 and the financial institutions in which such qualified escrow funds are maintained shall make such amendments to their qualified escrow agreements as may be necessary to effectuate a withdrawal of money from the qualified escrow funds pursuant to this section.*

~~¶7.7~~ 6. *Notwithstanding the provisions of NRS 370A.150, a manufacturer of tobacco products does not have any right to reversion of the money, including, without limitation, the interest or other appreciation earned on the money, released from escrow pursuant to this section.*

~~¶8.7~~ 7. *If a court of competent jurisdiction invalidates the provisions of subsection ~~¶6.7~~ 5. the money authorized to be released to Indian tribes pursuant to this section may be paid to the appropriate tribes out of the State General Fund, subject to all conditions and limits provided in this section.*

~~¶9.7~~ 8. *The Attorney General is authorized to enter into compacts on behalf of the State as provided in this section. Any compact so entered into must require the Indian tribe to verify that the conditions set forth in paragraphs (e), (f) and (g) of subsection 1 are met.*

Sec. 32. NRS 370A.010 is hereby amended to read as follows:

370A.010 As used in this chapter, the words and terms defined in NRS 370A.020 to 370A.120, inclusive, and section 28 of this act have the meanings ascribed to them in those sections.

Sec. 33. NRS 370A.120 is hereby amended to read as follows:

370A.120 "Units sold" means, with respect to a particular manufacturer of tobacco products for a particular year, the number of individual cigarettes sold in this state, *including, without limitation, any cigarettes sold on any qualified tribal land within the State*, by the manufacturer directly or through a distributor, retailer or similar intermediary or intermediaries during that year, ~~as measured by excise taxes collected by the State on packs, or containers of "roll-your-own" tobacco, bearing the excise stamp of this state.~~ *for which the State has the authority under federal law to impose excise or a similar tax or to collect escrow deposits. The term does not include any cigarettes sold:*

1. *On a federal installation in a transaction that is exempt from state taxation under federal law; or*

2. *On the qualified tribal land of an Indian tribe to a consumer who is an adult enrolled member of that tribe in a transaction that is exempt from state taxation under federal law.*

Sec. 34. NRS 370A.150 is hereby amended to read as follows:

370A.150 A manufacturer of tobacco products that deposits money into escrow pursuant to subsection 2 of NRS 370A.140 shall receive the interest

or other appreciation on the deposit as earned. The principal of the deposit may be released from escrow only under the following circumstances:

1. To pay a judgment or settlement on a released claim brought against that manufacturer by this State or by a releasing party located or residing in this State. Money may be released from escrow under this subsection only in the order in which it was deposited into escrow and only to the extent and at the time necessary to make payments required under the judgment or settlement.

2. To the extent that the manufacturer establishes that the amount it was required to deposit into escrow on account of units sold in the State in a particular year was greater than the Master Settlement Agreement payments, as determined pursuant to section IX(i) of that Agreement including after final determination of all adjustments, that such manufacturer would have been required to make on account of such units sold if the manufacturer had been a participating manufacturer, the excess must be released from escrow and revert to the manufacturer.

3. *In accordance with the provisions of section 31 of this act.*

4. To the extent not released from escrow under subsection 1 ~~[or 2,]~~ , 2 or 3, deposits must be released from escrow and revert to the manufacturer 25 years after the date on which they were deposited.

Sec. 35. 1. This section and sections 1 to 16, inclusive, 18 to 30, inclusive, and 32 of this act ~~becomes~~ become effective on July 1, 2013.

2. Sections 17, 31, 33 and 34 of this act become effective on January 1, 2014.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 929 to Senate Bill No. 516 protects our tobacco Master Settlement Agreement money. This amendment makes several technical corrections that were negotiated between the Office of the Attorney General, the tribes and the Department of Taxation to ensure our enforcement is done appropriately and accurately.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 58.

Bill read second time and ordered to third reading.

Assembly Bill No. 139.

Bill read second time.

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

Amendment No. 916.

"SUMMARY—Revises provisions relating to the state business portal. (BDR 7-127)"

"AN ACT relating to business; revising provisions governing the state business portal; revising provisions governing applications for certain authorizations to conduct a business in this State issued by state and local

agencies and health districts; requiring certain persons who are not required to obtain a state business license to obtain a certificate of exemption from the Secretary of State; requiring the Secretary of State to issue unique business identification numbers under certain circumstances; revising provisions governing the issuance of certain licenses by incorporated cities and counties; removing the prohibition against a county clerk refusing to accept for filing certain business certificates in certain circumstances; revising provisions governing the disclosure of certain information by the Employment Security Division of the Department of Employment, Training and Rehabilitation; repealing certain provisions; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Secretary of State is required to establish the state business portal to facilitate interaction among businesses and governmental agencies in this State by allowing businesses to conduct necessary transactions with governmental agencies in this State through the state business portal. (NRS 75A.100) Section 1 of this bill requires the Secretary of State to: (1) establish common business registration information that is used by state and local agencies and health districts to conduct necessary transactions with businesses in this State; and (2) cause the state business portal to provide common business registration information to state and local agencies and health districts that conduct necessary transactions with businesses in this State. Section 1 further requires state and local agencies and health districts to: (1) integrate their electronic application processes into the state business portal; (2) use the state business portal to accept and disseminate common business registration information that is needed by the state or local agency or health district to issue a license, certificate, registration, permit or similar type of authorization to conduct a business in this State or to engage in an occupation or profession in this State; and (3) make available on the Internet applications for a license, certificate, registration, permit or similar type of authorization to conduct a business in this State or to engage in an occupation or profession in this State and to integrate such applications into the state business portal. However, section 1 also specifies that a state or local agency or health district is not required to disseminate or release information if such action would result in the state or local agency or health district violating any provision of state or federal law relating to the confidentiality of the information. Under section 9 of this bill: (1) a state or local agency or health district is required to accept common business registration information via the state business portal on or before January 1, 2014, unless the State Board of Examiners extends that deadline; and (2) a state or local agency or health district which believes it cannot comply with certain requirements relating to the state business portal must, with the assistance of the Secretary of State, submit to the State Board of Examiners and the Legislative Commission, on or before July 1, 2014, a written explanation setting forth: (1) the reasons that it cannot timely comply

with the requirements; and (2) a timeline for integration into the state business portal.

Under existing law, certain persons are excluded from the definition of "business" for the purposes of state business licenses and, thus, are not required to obtain a state business license. (NRS 76.020) Section 2 of this bill requires these persons to obtain annually from the Secretary of State a certificate of exemption from the requirement to obtain a state business license. Under section 2, a person required to obtain a certificate of exemption must post the certificate conspicuously at his or her establishment or place of business and is subject to a penalty of not more than \$50 if the person fails to do so. Section 3 of this bill provides that a person required to obtain a state business license must post the state business license conspicuously at his or her establishment or place of business and is subject to a penalty of not more than \$50 if the person fails to do so.

Section 4 of this bill requires the Secretary of State to assign a unique business identification number to each business entity organized in this State and to each person issued a state business license or a certificate of exemption from the requirement to obtain a state business license. Under section 1: (1) the Secretary of State must cause the state business portal to interface with the system used by the Secretary of State to assign business identification numbers; and (2) state and local agencies and health districts that issue licenses, certificates, registrations, permits or similar types of authorization to conduct a business in this State or to engage in an occupation or profession in this State must require applicants for such a license, certificate, registration or permit to include the business identification number on the application. Sections 2 and 3 require that a state business license or certificate of exemption include the business identification number assigned to the holder of the license or certificate.

Sections 5 and 6 of this bill amend provisions governing city and county business licenses so that certain information regarding industrial insurance is provided through the state business portal. Section ~~7~~ 7.3 of this bill ~~provides that the affidavit required by existing law to obtain a local business license to sell certain retail merchandise must include a statement that the applicant has a current state business license, or a certificate of exemption from the requirements for a state business license, and the applicant's business identification number.~~ removes the provision from existing law which prohibits a county clerk, in certain circumstances, from refusing to accept for filing a certificate or renewal certificate concerning persons doing business in this State under an assumed or fictitious name that is filed by a foreign artificial person or persons. Section 7.5 of this bill authorizes the Employment Security Division of the Department of Employment, Training and Rehabilitation to make certain information available to the Secretary of State for certain purposes related to operating and maintaining the state business portal. Section 8 of this bill repeals certain provisions relating to: (1) the coordination of the collection of certain information and forms from

businesses by state agencies and local governments; and (2) the affidavit required to be filed by an applicant who wishes to obtain a local business license to sell certain retail merchandise.

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

Section 1. NRS 75A.100 is hereby amended to read as follows:

75A.100 1. The Secretary of State shall provide for the establishment of a state business portal to facilitate interaction among businesses and governmental agencies in this State by allowing businesses to conduct necessary transactions with governmental agencies in this State through use of the state business portal.

2. The Secretary of State shall:

(a) Establish, through cooperative efforts ~~and~~ *and consultation with representatives of state agencies, local governments, health districts and businesses*, the standards and requirements necessary to design, build and implement the state business portal;

(b) Establish the standards and requirements necessary for a state or local agency to participate in the state business portal;

(c) Authorize a state or local agency to participate in the state business portal if the Secretary of State determines that the agency meets the standards and requirements necessary for such participation;

(d) Determine the appropriate requirements to be used by businesses and governmental agencies conducting transactions through use of the state business portal;

(e) *Cause the state business portal to interface with the system established by the Secretary of State to assign business identification numbers;*

(f) *For the purpose of coordinating the collection of common information from businesses using the state business portal:*

(1) *Establish common business registration information to be collected from businesses by state and local agencies and health districts which issue licenses, certificates, registrations, permits or similar types of authorization to conduct a business in this State, which collect taxes or fees or which conduct other necessary transactions with businesses in this State; and*

(2) *Cause the state business portal to provide the common business registration information to state and local agencies and health districts which participate in the state business portal and which use the common business registration information to issue licenses, certificates, registrations, permits or similar types of authorization to conduct a business in this State, to collect taxes or fees or to conduct other necessary transactions with businesses in this State;*

(g) In carrying out the provisions of this section, consult with the Executive Director of the Office of Economic Development to ensure that the activities of the Secretary of State are consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053; and

~~[(f)]~~ (h) Adopt such regulations and take any appropriate action as necessary to carry out the provisions of this chapter.

3. Each state or local agency or health district that issues a license, certificate, registration, permit or similar type of authorization to conduct a business in this State shall:

(a) To the extent practicable:

(1) Make available on its Internet website any of its applications for a license, certificate, registration, permit or similar type of authorization to conduct a business in this State.

(2) Accept the electronic transfer of common business registration information from the state business portal for use in any electronic application for a license, certificate, registration, permit or similar type of authorization to conduct a business in this State or for use in an application processing system.

(3) Integrate into the state business portal any of its applications for a license, certificate, registration, permit or similar type of authorization to conduct a business in this State. As used in this subparagraph, "integrate" means to consolidate an electronic application process so that it is capable of collecting and disseminating ~~any~~ information ~~required for the authorization~~ to a state or local agency or health district for the processing of the application for a license, certificate, registration, permit or similar type of authorization to conduct a business in this State.

(b) Require an applicant for a license, certificate, registration, permit or similar type of authorization to conduct a business in this State to include in the application the applicant's business identification number.

(c) Ensure that the state or local agency or health district, as applicable, is capable of using the state business portal to accept and disseminate to participating state and local agencies and health districts the common business registration information established pursuant to subparagraph (1) of paragraph (f) of subsection 2 which is needed by the state or local agency or health district to issue a license, certificate, registration, permit or similar type of authorization to conduct a business in this State.

4. The provisions of subsection 3 do not require a state or local agency or health district to disseminate or release information if such action would result in the state or local agency or health district violating any provision of state or federal law relating to the confidentiality of the information.

5. As used in this section:

(a) "Business identification number" means the number assigned by the Secretary of State pursuant to section 4 of this act to an entity organized pursuant to this title or to a person who is issued a state business license pursuant to chapter 76 of NRS or a certificate of exemption from the requirement to obtain a state business license pursuant to section 2 of this act.

(b) "Disseminate" means to distribute in an electronic format that is capable of being accepted by participating state and local agencies and

health districts and used by participants as the same common business registration information used to issue a license, certificate, registration, permit or similar type of authorization, to collect taxes or fees or to conduct other necessary transactions with businesses in this State.

(c) "Health district" means a health district created pursuant to NRS 439.362 or 439.370.

Sec. 2. Chapter 76 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A person who is not required to obtain a state business license pursuant to paragraphs (b) to (f), inclusive, of subsection 2 of NRS 76.020 must obtain a certificate of exemption from the Secretary of State pursuant to this section.*

2. *An application for a certificate of exemption must be made upon a form prescribed by the Secretary of State and include any information that the Secretary of State deems necessary to determine whether the applicant is exempt from the requirements to obtain a state business license pursuant to paragraphs (b) to (f), inclusive, of subsection 2 of NRS 76.020.*

3. *The application must be signed pursuant to NRS 239.330 by:*

(a) The owner of a business that is owned by a natural person.

(b) A member or partner of an association or partnership.

(c) A general partner of a limited partnership.

(d) A managing partner of a limited-liability partnership.

(e) A manager or managing member of a limited-liability company.

(f) An officer of a corporation or some other person specifically authorized by the corporation to sign the application.

4. *If the application for a certificate of exemption is defective in any respect, the Secretary of State may return the application for correction.*

5. *A certificate of exemption issued pursuant to this section must contain the business identification number assigned by the Secretary of State pursuant to section 4 of this act.*

6. *A certificate of exemption must be renewed annually. A person who applies for the renewal of a certificate of exemption must submit the application for renewal:*

(a) If the person is an entity required to file an annual list with the Secretary of State pursuant to this title, at the time the person submits the annual list to the Secretary of State, unless the person submits a certificate or other form evidencing the dissolution of the entity; or

(b) If the person is not an entity required to file an annual list with the Secretary of State pursuant to this title, on the last day of the month in which the anniversary date of issuance of the certificate of exemption occurs in each year, unless the person submits a written statement to the Secretary of State, at least 10 days before that date, indicating that the person will not be conducting an activity for which a certificate of exemption must be obtained.

7. *Every person required to obtain a certificate of exemption pursuant to this section shall post the certificate of exemption conspicuously at the*

person's establishment or place of business, and keep it so conspicuously posted until the certificate of exemption has expired or the person is no longer required to obtain a certificate of exemption. Any person who fails to post or keep posted a certificate of exemption as required by this section is subject to a penalty of not more than \$50 to be imposed by the Secretary of State.

8. If the Secretary of State discovers that a person has violated the requirements of subsection 7, the Secretary of State shall send a written notice of the violation to the person. The written notice must state that the person may request a hearing by filing a written request for a hearing with the Secretary of State not later than 14 days after the written notice is sent. If the person files a request for a hearing with the Secretary of State not later than 14 days after written notice is sent, the Secretary of State must afford the person an opportunity for a hearing.

Sec. 3. NRS 76.100 is hereby amended to read as follows:

76.100 1. A person shall not conduct a business in this State unless and until the person obtains a state business license issued by the Secretary of State. If the person is:

(a) An entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license at the time of filing the initial or annual list.

(b) Not an entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license before conducting a business in this State.

2. An application for a state business license must:

(a) Be made upon a form prescribed by the Secretary of State;

(b) Set forth the name under which the applicant transacts or intends to transact business, or if the applicant is an entity organized pursuant to this title and on file with the Secretary of State, the exact name on file with the Secretary of State, the entity number as assigned by the Secretary of State, if known, and the location in this State of the place or places of business;

(c) Be accompanied by a fee in the amount of \$100; and

(d) Include any other information that the Secretary of State deems necessary.

↪ If the applicant is an entity organized pursuant to this title and on file with the Secretary of State and the applicant has no location in this State of its place of business, the address of its registered agent shall be deemed to be the location in this State of its place of business.

3. The application must be signed pursuant to NRS 239.330 by:

(a) The owner of a business that is owned by a natural person.

(b) A member or partner of an association or partnership.

(c) A general partner of a limited partnership.

(d) A managing partner of a limited-liability partnership.

(e) A manager or managing member of a limited-liability company.

(f) An officer of a corporation or some other person specifically authorized by the corporation to sign the application.

4. If the application for a state business license is defective in any respect or the fee required by this section is not paid, the Secretary of State may return the application for correction or payment.

5. *A state business license issued pursuant to this section must contain the business identification number assigned by the Secretary of State pursuant to section 4 of this act.*

6. *Every person required to obtain a state business license pursuant to this section shall post such license conspicuously at the person's establishment or place of business, and keep it so conspicuously posted until the license has expired or the person ceases to transact such business. Any person who fails to post or keep posted a license as required by this section is subject to a penalty of not more than \$50 to be imposed by the Secretary of State.*

7. *If the Secretary of State discovers that a person has violated the requirements of subsection 6, the Secretary of State shall send a written notice of the violation to the person. The written notice must state that the person may request a hearing by filing a written request for a hearing with the Secretary of State not later than 14 days after the written notice is sent. If the person files a request for a hearing with the Secretary of State not later than 14 days after written notice is sent, the Secretary of State must afford the person an opportunity for a hearing.*

8. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.

~~{6-}~~ 9. For the purposes of this chapter, a person shall be deemed to conduct a business in this State if a business for which the person is responsible:

(a) Is organized pursuant to this title, other than a business organized pursuant to:

(1) Chapter 82 or 84 of NRS; or

(2) Chapter 81 of NRS if the business is a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

(b) Has an office or other base of operations in this State;

(c) Has a registered agent in this State; or

(d) Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he or she is paid.

~~{7-}~~ 10. As used in this section, "registered agent" has the meaning ascribed to it in NRS 77.230.

Sec. 4. Chapter 225 of NRS is hereby amended by adding thereto a new section to read as follows:

For the purpose of establishing the identity of an entity organized pursuant to title 7 of NRS or a person who is issued a state business license pursuant

to chapter 76 of NRS or a certificate of exemption pursuant to section 2 of this act, the Secretary of State shall assign a unique business identification number to each entity organized pursuant to title 7 of NRS or to any person who is issued a state business license pursuant to chapter 76 of NRS or a certificate of exemption pursuant to section 2 of this act.

Sec. 5. NRS 244.33505 is hereby amended to read as follows:

244.33505 1. In a county in which a license to engage in a business is required, the board of county commissioners shall not issue such a license unless the applicant for the license:

(a) Signs an affidavit affirming that the business:

(1) Has received coverage by a private carrier as required pursuant to chapters 616A to 616D, inclusive, and chapter 617 of NRS;

(2) Maintains a valid certificate of self-insurance pursuant to chapters 616A to 616D, inclusive, of NRS;

(3) Is a member of an association of self-insured public or private employers; or

(4) Is not subject to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS; or

(b) If the applicant submits his or her application electronically, attests to his or her compliance with the provisions of paragraph (a).

2. In a county in which such a license is not required, the board of county commissioners shall require a business, when applying for a post office box, to submit to the board the affidavit or attestation required by subsection 1.

3. ~~Each~~ *Except as otherwise provided in this subsection, each* board of county commissioners shall submit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry monthly a ~~list~~ *report* of the names of those businesses which have submitted an affidavit or attestation required by subsections 1 and 2. *A board of county commissioners is not required to include in the monthly report required by this subsection the name of a business which has submitted an attestation electronically via the state business portal.*

4. *Except as otherwise provided in subsection 5, upon receiving an affidavit or attestation required by this section, a board of county commissioners shall provide the owner of the business with a document setting forth the rights and responsibilities of employers and employees to promote safety in the workplace, in accordance with regulations adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.376.*

5. *If a business submits an attestation required by this section electronically via the state business portal, the state business portal shall provide the owner of the business with access to information setting forth the rights and responsibilities of employers and employees to promote safety in the workplace, in accordance with regulations adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.376.*

6. *As used in this section, "state business portal" means the state business portal established pursuant to NRS 75A.100, 75A.200 and 75A.300.*

Sec. 6. NRS 268.0955 is hereby amended to read as follows:

268.0955 1. In an incorporated city in which a license to engage in a business is required, the city council or other governing body of the city shall not issue such a license unless the applicant for the license:

(a) Signs an affidavit affirming that the business:

(1) Has received coverage by a private carrier as required pursuant to chapters 616A to 616D, inclusive, and chapter 617 of NRS;

(2) Maintains a valid certificate of self-insurance pursuant to chapters 616A to 616D, inclusive, of NRS;

(3) Is a member of an association of self-insured public or private employers; or

(4) Is not subject to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS; or

(b) If the applicant submits his or her application electronically, attests to his or her compliance with the provisions of paragraph (a).

2. In an incorporated city in which such a license is not required, the city council or other governing body of the city shall require a business, when applying for a post office box, to submit to the governing body the affidavit or attestation required by subsection 1.

3. ~~Each~~ *Except as otherwise provided in this subsection, each city council or other governing body of an incorporated city shall submit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry monthly a ~~list~~ report of the names of those businesses which have submitted an affidavit or attestation required by subsections 1 and 2. A city council or other governing board of an incorporated city is not required to include in the monthly report required by this subsection the name of a business which has submitted an attestation electronically via the state business portal.*

4. *Except as otherwise provided in subsection 5, upon receiving an affidavit ~~for attestation~~ required by this section, the city council or other governing body of an incorporated city shall provide the applicant with a document setting forth the rights and responsibilities of employers and employees to promote safety in the workplace in accordance with regulations adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.376.*

5. *If a business submits an attestation required by this section electronically via the state business portal, the state business portal shall provide the owner of the business with access to information setting forth the rights and responsibilities of employers and employees to promote safety in the workplace, in accordance with regulations adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.376.*

6. As used in this section, "state business portal" means the state business portal established pursuant to NRS 75A.100, 75A.200 and 75A.300.

Sec. 7. ~~NRS 364.110 is hereby amended to read as follows:~~

~~364.110 No county license board and no other licensing authority, whether county, city or township, within the State of Nevada, shall issue an initial license or transfer any license to any person, firm or corporation authorizing the person, firm or corporation to engage in, or in any manner carry on, any business of the retail sale of wines, beers, liquors, soft drinks, produce, meats or other foodstuffs, clothing, hardware, or any other type or class of merchandise whatever, without requiring the applicant or applicants for the license to file with the licensing authority an affidavit showing:~~

~~1. That the applicant or applicants:~~

~~(a) Maintain an active state business license issued pursuant to chapter 76 of NRS; or~~

~~(b) Have a certificate of exemption from the requirement to obtain a state business license pursuant to section 2 of this act; and~~

~~2. The business identification number assigned to the applicant or applicants by the Secretary of State pursuant to section 4 of this act.~~

~~3. Whether the applicant or applicants are engaged in business under a fictitious name, and if so engaged in business, that the applicant or applicants have complied with the provisions of chapter 602 of NRS.~~

~~[2.] 4. Whether there has been any change in ownership in the business of the applicant or applicants during the preceding calendar year, and if there has been any such change in ownership, that the change was made in compliance with the provisions of chapter 104 of NRS.] (Deleted by amendment.)~~

Sec. 7.3. NRS 602.020 is hereby amended to read as follows:

602.020 1. A certificate filed pursuant to NRS 602.010 or a renewal certificate filed pursuant to NRS 602.035 must state the assumed or fictitious name under which the business is being conducted or is intended to be conducted, and if conducted by:

(a) A natural person:

- (1) His or her full name;
- (2) The street address of his or her residence or business; and
- (3) If the mailing address is different from the street address, the mailing address of his or her residence or business;

(b) An artificial person:

- (1) Its name; and
- (2) Its mailing address;

(c) A general partnership:

- (1) The full name of each partner who is a natural person;
- (2) The street address of the residence or business of each partner who is a natural person;

(3) If the mailing address is different from the street address, the mailing address of the residence or business of each partner who is a natural person; and

(4) If one or more of the partners is an artificial person described in paragraph (b), the information required by paragraph (b) for each such partner; or

(d) A trust:

(1) The full name of each trustee of the trust;

(2) The street address of the residence or business of each trustee of the trust; and

(3) If the mailing address is different from the street address, the mailing address of the residence or business of each trustee of the trust.

2. The certificate must be:

(a) Signed:

(1) In the case of a natural person, by that natural person;

(2) In the case of an artificial person, by an officer, director, manager, general partner, trustee or other natural person having the authority to bind the artificial person to a contract;

(3) In the case of a general partnership, by each of the partners who is a natural person and, if one or more of the partners is an artificial person described in subparagraph (2), by the person described in subparagraph (2); or

(4) In the case of a trust, by each of the trustees; and

(b) Notarized, unless the board of county commissioners of the county adopts an ordinance providing that the certificate may be filed without being notarized.

~~3. No county clerk may refuse to accept for filing a certificate filed by a foreign artificial person or foreign artificial persons because the foreign artificial person or foreign artificial persons have not qualified to do business in this State under title 7 of NRS.~~

~~4.~~ As used in this section:

(a) "Artificial person" means any organization organized under the law of the United States, any foreign country, or a state, province, territory, possession, commonwealth or dependency of the United States or any foreign country, and as to which the government, state, province, territory, possession, commonwealth or dependency must maintain a record showing the organization to have been organized.

~~(b) "Foreign artificial person" means an artificial person that is not organized under the laws of this State.~~

~~(c)~~ "Record" means information which is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

Sec. 7.5. NRS 612.265 is hereby amended to read as follows:

612.265 1. Except as otherwise provided in this section and NRS 239.0115, information obtained from any employing unit or person

pursuant to the administration of this chapter and any determination as to the benefit rights of any person is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's or employing unit's identity.

2. Any claimant or a legal representative of a claimant is entitled to information from the records of the Division, to the extent necessary for the proper presentation of the claimant's claim in any proceeding pursuant to this chapter. A claimant or an employing unit is not entitled to information from the records of the Division for any other purpose.

3. Subject to such restrictions as the Administrator may by regulation prescribe, the information obtained by the Division may be made available to:

(a) Any agency of this or any other state or any federal agency charged with the administration or enforcement of laws relating to unemployment compensation, public assistance, workers' compensation or labor and industrial relations, or the maintenance of a system of public employment offices;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation; ~~and~~

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS ~~[-]~~; and

(f) *The Secretary of State for the purpose of verifying that data submitted electronically via the state business portal established pursuant to NRS 75A.100, 75A.200 and 75A.300 satisfies the requirements established by the Division and, as necessary, for the purpose of maintaining the technical integrity and functionality of the state business portal established pursuant to NRS 75A.100, 75A.200 and 75A.300.*

↪ Information obtained in connection with the administration of the Employment Service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or a public assistance program.

4. Upon written request made by a public officer of a local government, the Administrator shall furnish from the records of the Division the name, address and place of employment of any person listed in the records of employment of the Division. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Administrator may charge a reasonable fee for the cost of providing the requested information.

5. The Administrator may publish or otherwise provide information on the names of employers, their addresses, their type or class of business or industry, and the approximate number of employees employed by each such employer, if the information released will assist unemployed persons to obtain employment or will be generally useful in developing and diversifying the economic interests of this State. Upon request by a state agency which is able to demonstrate that its intended use of the information will benefit the residents of this State, the Administrator may, in addition to the information listed in this subsection, disclose the number of employees employed by each employer and the total wages paid by each employer. The Administrator may charge a fee to cover the actual costs of any administrative expenses relating to the disclosure of this information to a state agency. The Administrator may require the state agency to certify in writing that the agency will take all actions necessary to maintain the confidentiality of the information and prevent its unauthorized disclosure.

6. Upon request therefor, the Administrator shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation and employment status of each recipient of benefits and the recipient's rights to further benefits pursuant to this chapter.

7. To further a current criminal investigation, the chief executive officer of any law enforcement agency of this State may submit a written request to the Administrator that the Administrator furnish, from the records of the Division, the name, address and place of employment of any person listed in the records of employment of the Division. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by the chief executive officer certifying that the request is made to further a criminal investigation currently being conducted by the agency. Upon receipt of such a request, the Administrator shall furnish the information requested. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

8. In addition to the provisions of subsection 5, the Administrator shall provide lists containing the names and addresses of employers, and information regarding the wages paid by each employer to the Department of Taxation, upon request, for use in verifying returns for the taxes imposed pursuant to chapters 363A and 363B of NRS. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

9. A private carrier that provides industrial insurance in this State shall submit to the Administrator a list containing the name of each person who received benefits pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS during the preceding month and request that the Administrator compare the information so provided with the records of the Division regarding persons claiming benefits pursuant to this chapter for the same period. The information submitted by the private carrier must be in a

form determined by the Administrator and must contain the social security number of each such person. Upon receipt of the request, the Administrator shall make such a comparison and, if it appears from the information submitted that a person is simultaneously claiming benefits under this chapter and under chapters 616A to 616D, inclusive, or chapter 617 of NRS, the Administrator shall notify the Attorney General or any other appropriate law enforcement agency. The Administrator shall charge a fee to cover the actual costs of any related administrative expenses.

10. The Administrator may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this chapter, and may in connection with the request transmit any such report or return to the Comptroller of the Currency of the United States as provided in section 3305(c) of the Internal Revenue Code of 1954.

11. If any employee or member of the Board of Review, the Administrator or any employee of the Administrator, in violation of the provisions of this section, discloses information obtained from any employing unit or person in the administration of this chapter, or if any person who has obtained a list of applicants for work, or of claimants or recipients of benefits pursuant to this chapter uses or permits the use of the list for any political purpose, he or she is guilty of a gross misdemeanor.

12. All letters, reports or communications of any kind, oral or written, from the employer or employee to each other or to the Division or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of this chapter.

Sec. 8. NRS 237.180 ~~and~~, 364.110 and 364.120 are hereby repealed.

Sec. 9. 1. A state or local agency or health district is required to use the state business portal to accept common business registration information from the state business portal as required by subparagraph (2) of paragraph (a) of subsection 3 of NRS 75A.100, as amended by section 1 of this act, on or before January 1, 2014, unless the State Board of Examiners extends this deadline pursuant to subsection 2.

2. If a state or local agency or health district believes that it cannot comply with the requirement to accept common business registration information pursuant to subparagraph (2) of paragraph (a) of subsection 3 of NRS 75A.100, as amended by section 1 of this act, on or before January 1, 2014, the state or local agency or health district may submit to the State Board of Examiners a written request to extend the deadline which sets forth the reason for requesting the extension. Upon receipt of a written request to extend the deadline, the State Board of Examiners may extend the deadline set forth in subsection 1 as it deems necessary. The State Board of Examiners shall report to the Legislative Commission each deadline

extension approved by the State Board of Examiners pursuant to this subsection.

3. If a state or local agency or health district complies with the requirement to accept common business registration information pursuant to subparagraph (2) of paragraph (a) of subsection 3 of NRS 75A.100, as amended by section 1 of this act, on or before January 1, 2014, but believes that it cannot comply with any other requirement of subsection 3 of NRS 75A.100, as amended by section 1 of this act, the state or local agency or health district, with the assistance of the Secretary of State, shall submit to the State Board of Examiners and the Legislative Commission, on or before July 1, 2014, a written explanation of the status of the integration of the state or local agency or health district into the state business portal which sets forth the reasons that the state or local agency or health district cannot timely comply with the other requirements of subsection 3 of NRS 75A.100 and, to the extent practicable, a projected timeline for integration into the state business portal.

Sec. 10. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 11. This act becomes effective on July 1, 2013.

~~TEXT OF REPEALED SECTION~~ SECTIONS

237.180 Requirements; annual meeting to design and modify joint forms; report of annual meeting.

1. The agencies of this State, and the local governments within this State, that collect taxes or fees from persons engaged in business, or require such persons to provide related information and forms, shall coordinate their collection of information and forms so that each enterprise is required to furnish information in as few separate reports as possible. This section applies specifically, but is not limited, to the Department of Taxation, the Employment Security Division of the Department of Employment, Training and Rehabilitation, the State Department of Conservation and Natural Resources, and the counties and cities that require a business license.

2. On or before October 1 of each year, the Executive Director of the Department of Taxation shall convene the heads, or persons designated by the respective heads, of the state agencies named in subsection 1 and the appropriate officers of the cities and counties that require a business license. The Secretary of State, a representative of the Nevada Association of Counties and a representative of the Nevada League of Cities must be invited to attend the meeting. If the Executive Director knows, or is made aware by persuasive information furnished by any enterprise required to pay a tax or fee or to provide information, that any other state or local agency needs to participate to accomplish the purpose set forth in subsection 1, the Executive Director shall also invite the head of that agency or the appropriate officer of the local government, and the person so invited shall attend. The Administrator of the Division of Enterprise Information Technology Services

of the Department of Administration shall assist in effecting the consolidation of the information and the creation of the forms.

3. The persons so assembled shall design and modify, as appropriate, the necessary joint forms for use during the ensuing fiscal year to accomplish the purpose set forth in subsection 1. If any dispute cannot be resolved by the participants, it must be referred to the Nevada Tax Commission for a decision that is binding on all parties.

4. On or before February 15 of each year, the Executive Director of the Department of Taxation shall submit a report to the Director of the Legislative Counsel Bureau for presentation to the Legislature. The report must include a summary of the annual meeting held during the immediately preceding year and any recommendations for proposed legislation.

5. The provisions of chapter 241 of NRS apply to a meeting held pursuant to this section. The Executive Director of the Department of Taxation shall provide members of the staff of the Department of Taxation to assist in complying with the requirements of chapter 241 of NRS.

364.110 Licensing authority to require affidavit. No county license board and no other licensing authority, whether county, city or township, within the State of Nevada, shall issue an initial license or transfer any license to any person, firm or corporation authorizing the person, firm or corporation to engage in, or in any manner carry on, any business of the retail sale of wines, beers, liquors, soft drinks, produce, meats or other foodstuffs, clothing, hardware, or any other type or class of merchandise whatever, without requiring the applicant or applicants for the license to file with the licensing authority an affidavit showing:

1. Whether the applicant or applicants are engaged in business under a fictitious name, and if so engaged in business, that the applicant or applicants have complied with the provisions of chapter 602 of NRS.

2. Whether there has been any change in ownership in the business of the applicant or applicants during the preceding calendar year, and if there has been any such change in ownership, that the change was made in compliance with the provisions of chapter 104 of NRS.

364.120 Filing fee for required affidavit. Any licensing authority coming within the provisions of NRS 364.110 is authorized to collect a filing fee of not to exceed \$3 for the filing of the affidavit required to be filed by NRS 364.110.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Thank you, Mr. President. Amendment No. 916 to Assembly Bill No. 139 specifies that a State or local agency or health district is not required to disseminate or release information if doing so would violate State or federal confidentiality law. It deletes language currently in Section 20 of Chapter 602 of *Nevada Revised Statutes* allowing counties to permit Fictitious Firm Name filings even though the filing entity is not in good standing with the State. The bill repeals obsolete provisions of *Nevada Revised Statutes* relating to: (1) the coordination of the collection of certain information and forms from businesses by State agencies and local

governments; and (2) the affidavit required to be filed by an applicant for a local business license to sell certain retail merchandise.

Amendment adopted.

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

Assembly Bill No. 226.

Bill read second time.

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

Amendment No. 928.

"SUMMARY—Enacts provisions governing certain policies of insurance, annuities, benefit contracts and retained asset accounts. (BDR 57-588)"

"AN ACT relating to insurance; requiring an insurer to request certain information from its insureds, annuity holders and retained asset account holders; requiring an insurer to perform a comparison of the insurer's life insurance policies, annuities, benefit contracts and retained asset accounts against the Death Master File from the Social Security Administration or other approved database; requiring an insurer to perform certain actions if a comparison with the Death Master File results in a match with an insured, annuity holder or retained asset account holder; requiring an insurer to notify the State Treasurer of certain unclaimed benefits which revert by escheat to the State and to transfer the unclaimed benefit to the State Treasurer; authorizing the Commissioner of Insurance to issue certain orders relating to certain duties of an insurer; providing that certain violations may constitute an unfair trade practice; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law governs the business of conducting insurance in this State. (Title 57 of NRS) Existing law further regulates the duties of insurers who issue policies of life insurance and annuities in this State. (Chapter 688A of NRS) This bill sets forth new provisions concerning establishing the identity and death of an insured or beneficiary and the payment of death benefits under a policy of life insurance, annuity or retained asset account.

Sections 2.5-6 of this bill define the terms "benefit contract," "Death Master File," "insured," "policy of life insurance" and "retained asset account" for the purposes of this bill. Section 7 of this bill requires an insurer, on or before the effective date of a life insurance policy, annuity or benefit contract or on or before the date a retained asset account is established, to request from its insureds, annuity contract holders and retained asset account holders sufficient information to ensure that all benefits are distributed to the correct person upon the death of the insured, annuity holder or retained asset account holder. With certain exceptions, section 8 of this bill requires an insurer, at least semiannually, to perform a comparison of the names on the Death Master File from the Social Security Administration with its insureds' life insurance policies, annuities, benefit

contracts and retained asset accounts to identify potential matches. If an insurer identifies a potential match through a search of the Death Master File, section 8 requires an insurer to: (1) make a reasonable effort to confirm the death of the insured, annuity holder or retained asset account holder; and (2) determine whether death benefits are due in accordance with the applicable policy or contract. If benefits are due, section 8 also requires an insurer to: (1) make a reasonable effort to locate each beneficiary; and (2) provide each beneficiary with the appropriate claim forms and instructions that detail the procedure for making a claim. ~~[- and (3) process any claims received accordingly.]~~ Section 9.3 of this bill requires an insurer to notify the State Treasurer upon the reversion by escheat of a benefit under a policy of life insurance or an annuity and transfer to the State Treasurer the unclaimed benefit as soon as practicable after providing notice. Section 9.5 of this bill authorizes the Commissioner of Insurance to issue certain orders modifying the duties of an insurer under the provisions of this bill. Section 9.7 provides that the failure of an insurer to comply with the provisions of this bill may constitute an unfair trade practice.

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

Section 1. Title 57 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 2.5 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 2.5. *"Benefit contract" has the meaning ascribed to it in NRS 695A.003.*

Sec. 3. *"Death Master File" means the Death Master File from the Social Security Administration or any other database or service which is at least as comprehensive as the Death Master File from the Social Security Administration and which is acceptable to the Commissioner for determining that a person has reportedly died.*

Sec. 4. *"Insured" means:*

1. *A person covered by a policy of life insurance;*
2. *A holder of a retained asset account;*
3. *An annuitant or other owner of an annuity, when the annuity provides for benefits to be paid or other money to be distributed upon the death of the annuitant or other owner of the annuity; or*
4. *A person covered by a benefit contract under which contractual death benefits are payable to a beneficiary pursuant to NRS 695A.180.*

Sec. 5. 1. *"Policy of life insurance" means any policy, contract or certificate of life insurance that provides a death benefit.*

2. *The term does not include:*

(a) A policy or certificate of life insurance that is used to fund a preneed contract or sales agreement for funeral or burial services pursuant to chapter 689 of NRS; ~~for~~

(b) A policy or certificate of credit life insurance or credit accident and health insurance pursuant to chapter 690A of NRS ~~for~~; or

(c) A policy or certificate of accidental death insurance.

Sec. 6. "Retained asset account" means any account or other mechanism by which the settlement of any proceeds payable under a policy of life insurance is accomplished by the insurer or a person acting on behalf of the insurer by depositing the proceeds into an account with draft or check writing privileges, where the proceeds are retained by the insurer, pursuant to a supplementary contract not involving annuity benefits.

Sec. 6.5. The provisions of this chapter do not apply to any policy of life insurance, annuity or benefit contract that is used to fund or otherwise provide a death benefit under an employee benefit program which is subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.

Sec. 7. On or before the effective date of a policy of life insurance, annuity or benefit contract or on or before the date of the establishment of a retained asset account, and upon any change in an insured, an owner or a beneficiary, an insurer shall request information sufficient to ensure that all benefits are distributed to the appropriate beneficiary upon the death of the insured.

Sec. 8. 1. Except as otherwise provided by order of the Commissioner pursuant to section 9.5 of this act, each insurer shall, at least semiannually, for the purpose of paying death benefits to a beneficiary, perform a comparison against the Death Master File of the policies of life insurance, annuities, benefit contracts and retained asset accounts of its insureds ~~[whose contracts]~~ which are in force. ~~[at the time the insurer performs the comparison.]~~ For the purposes of this subsection, a policy of life insurance, annuity, benefit contract or retained asset account is in force if, at the time of the death of the insured, the policy, annuity, contract or account has not lapsed, has not been cancelled or has not been terminated, and benefits are payable to a beneficiary or beneficiaries under the policy, annuity, contract or account.

2. Each insurer shall implement reasonable procedures to account for common variations in data that may otherwise preclude an exact match with the Death Master File.

3. Within 90 days after identifying a potential match resulting from a comparison of the Death Master File performed pursuant to subsection 1, the insurer shall:

(a) Make a reasonable effort to confirm the death of the insured against any other available records and information;

(b) Determine whether the deceased insured had purchased any other products of the insurer; and

(c) Determine whether death benefits are due in accordance with the applicable policy of life insurance, annuity or benefit contract and, if death benefits are due:

(1) Make a reasonable effort to locate each beneficiary; and

(2) Provide to each beneficiary who is located the appropriate claim forms and instructions for making a claim under the policy of life insurance, annuity or benefit contract.

4. If the insurer determines that death benefits are due in accordance with the applicable policy, annuity or benefit contract, the insurer shall keep a complete record of all efforts made to locate each beneficiary.

~~5. The insurer shall process all claims and make prompt payments in accordance with NRS 686A.310, 688A.140, 688A.410 and 688B.100 and chapter 695A of NRS, as applicable, and any regulations adopted or order issued by the Commissioner.~~

~~6.~~ If an insurer is unable to locate a beneficiary pursuant to this section, but is otherwise able to reasonably determine the death of an insured and determine that a death benefit is due in accordance with the applicable policy of life insurance, annuity or benefit contract, the death benefit, other than a death benefit payable pursuant to subsection 3 of NRS 695A.210, shall be ~~deemed~~ presumed abandoned pursuant to in accordance with the provisions of NRS 120A.500.

~~7.~~ 6. To the extent permitted by law, the insurer may disclose minimum necessary personal information about the insured or beneficiary to a person who the insurer reasonably believes may be able to assist the insurer in locating the beneficiary or a person otherwise entitled to payment of the claims proceeds.

~~8.~~ 7. With respect to a policy of group life insurance delivered or issued for delivery pursuant to chapter 688B of NRS, an insurer is required to confirm the possible death of an insured pursuant to this chapter if the insurer maintains at least the following information for the insured under such a policy:

(a) Social security number or name and date of birth;

(b) Beneficiary designation information;

(c) Coverage eligibility;

(d) Benefit amount; and

(e) Premium payment status.

Sec. 9. An insurer shall not charge or collect from an insured or a beneficiary any fees or costs associated with any search or verification conducted pursuant to this chapter.

Sec. 9.3. 1. An insurer shall notify the State Treasurer upon the reversion by escheat of a benefit under a policy of life insurance or an annuity. The notice must state that:

(a) The beneficiary under the policy or annuity has failed to submit a claim with the insurer; and

(b) The insurer has complied with section 8 of this act and, after a good faith effort which has been documented pursuant to section 8 of this act, has been unable to contact any beneficiary of the policy or annuity.

2. As soon as practicable after providing notice pursuant to subsection 1, an insurer shall transfer to the State Treasurer the amount of the unclaimed benefit owed under the policy of life insurance or annuity, including any accrued interest thereon.

3. The provisions of this section do not apply to a death benefit which vests under a benefit contract and which is payable pursuant to subsection 3 of NRS 695A.210.

Sec. 9.5. The Commissioner may, after notice and a hearing, issue an order:

1. Authorizing an insurer to limit its comparison against the Death Master File pursuant to section 8 of this act to its files that are searchable electronically.

2. Approving a timeline by which an insurer must convert its files into a form that is searchable electronically.

3. Exempting an insurer from any requirement of section 8 of this act, including authorizing an insurer to perform a comparison against the Death Master File less frequently than semiannually, upon a demonstration of financial hardship by the insurer.

4. Approving the plan of an insurer to comply with the requirements of this chapter during the period and in the manner set forth in the plan.

Sec. 9.7. Except as otherwise provided in section 9.5 of this act, the failure of an insurer to comply with any provision of this chapter may constitute an unfair trade practice for the purposes of chapter 686A of NRS.

Sec. 10. The Commissioner may adopt regulations to carry out the provisions of this chapter.

Sec. 11. (Deleted by amendment.)

Sec. 12. This act becomes effective on July 1, 2014.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Thank you, Mr. President. Amendment No. 928 to Assembly Bill No. 226 clarifies that the definition of a “policy of life insurance” does not include a policy or certificate of accidental death insurance. It also clarifies the definition of an “in-force policy.” The bill also deletes the provision requiring if benefits are due, an insurer must process any claims received accordingly.

Amendment adopted.

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

Assembly Bill No. 294.

Bill read second time and ordered to third reading.

Assembly Bill No. 336.

Bill read second time and ordered to third reading.

Assembly Bill No. 412.

Bill read second time.

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

Amendment No. 924.

"SUMMARY—Makes various changes relating to the Legislature. (BDR 17-528)"

"AN ACT relating to the Legislature; revising provisions relating to the training required for newly elected Legislators; changing certain deadlines applicable to the submission and drafting of legislative measures; revising the number of legislative measures that certain persons and entities may request for drafting; restricting Legislators from requesting the drafting of legislative measures under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires newly elected Legislators to attend certain training before the beginning of their first legislative session. (NRS 218A.285) Section 1 of this bill requires such training to include discussion of major policy issues that are likely to be considered during the ensuing regular session of the Legislature. Section 1 also requires the Director of the Legislative Counsel Bureau to communicate in writing the dates for training to candidates for election to the Assembly and the Senate for the ensuing regular session of the Legislature.

Existing law requires the Director to provide an electronic copy of a training session to any Legislator who was unable to attend the training session. (NRS 218A.285) Section 1 authorizes the Director to provide an alternate means of recording the information provided during certain training sessions and requires a Legislator who was unable to attend a training session to complete that session in the manner prescribed by the Director.

Existing law contains provisions governing requests for the drafting of legislative measures for a regular session. (NRS 218D.100-218D.215) This bill revises the number of legislative measures that various persons and entities may request for drafting and also revises the deadlines for making such requests.

Section 6 of this bill changes the number of legislative measures that Legislators and the chair of each standing committee may request by certain deadlines. Section 6 also changes the deadlines for providing sufficient detail to allow complete drafting of a legislative measure. Section 6 further: (1) prohibits a Legislator who has filed a declaration or an acceptance of candidacy for election to the House in which he or she is not currently sitting from requesting the drafting of legislative measures; and (2) provides that, if the Legislator is elected to the other House, any request that he or she submits before filing a declaration or an acceptance of candidacy for election counts against the applicable limitation for the House to which the Legislator was elected to serve. (NRS 218D.150)

Existing law allows each statutory legislative committee and interim study committee to request a certain number of legislative measures preceding a regular session. (NRS 218D.160) Section 7 of this bill reduces the number of legislative measures that may be requested by the Chair of the Legislative Commission and moves up the deadline for statutory legislative committees and interim study committees to provide sufficient detail to allow complete drafting of their legislative measures.

Section 8 of this bill revises the deadlines by which the Governor or the Governor's designated representative must submit requests for the drafting of legislative measures and increases the number of legislative measures that the Lieutenant Governor, Secretary of State, State Treasurer, State Controller and Attorney General may request for drafting. (NRS 218D.175)

Section 9 of this bill reduces the number of legislative measures that may be requested by the city council of a city whose population is 150,000 or more but less than 500,000 (currently the cities of Henderson, North Las Vegas and Reno). (NRS 218D.205)

Existing law authorizes the following entities to submit their own requests for the drafting of legislative measures for each regular session: (1) a mental health consortium established to develop strategic plans for the provision of mental health services to children with emotional disturbance and their families (NRS 218D.215, 433B.333); and (2) an interagency committee created by the Director of the Department of Health and Human Services to evaluate the child welfare system in this State. (NRS 432B.178) Sections 11 and 12 of this bill eliminate the authority of these entities to submit their own requests, but such entities still would be authorized by existing law to ask Legislators or legislative committees to submit and sponsor requests on behalf of the entities. (NRS 218D.150, 218D.155, 218D.160)

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

Section 1. NRS 218A.285 is hereby amended to read as follows:

218A.285 1. A Legislator who is elected to the Assembly or the Senate and who has not previously served in either House shall attend the training required pursuant to this section unless his or her attendance is excused pursuant to subsection 6.

2. A member of the Assembly who is required to attend training pursuant to this section shall attend each training session designated as mandatory by the Speaker of the Assembly. A member of the Senate who is required to attend training pursuant to this section shall attend each training session designated as mandatory by the Majority Leader of the Senate.

3. The training required pursuant to this section must ~~be recorded electronically and~~ include:

- (a) Legislative procedure and protocol;
- (b) Overviews of the state budget and the budgetary process;
- (c) ~~Briefings on~~ Discussion of major policy issues ~~relevant to the State;~~
that are likely to be considered during the ensuing regular session; and

(d) Such other matters as are deemed appropriate by the Speaker of the Assembly, the Majority Leader of the Senate, the Minority Leader of the Assembly and the Minority Leader of the Senate for their respective Houses.

4. The Director shall provide staff support for the training required pursuant to this section.

5. The training required pursuant to this section must not exceed a total of 10 days and must be conducted between the day next after the general election and the commencement of the ensuing regular session. The dates for the training must be ~~determined~~ :

(a) *Determined* by the Speaker of the Assembly and the Majority Leader of the Senate ~~and posted~~ ;

(b) *Posted* on the public website of the Legislature on ~~an~~ *the* Internet ~~website~~ ; and

(c) *Communicated in writing by the Director to the candidates for election to the Assembly and the Senate for the ensuing regular session,*

➔ *not later than 90 days before the first day on which training will be conducted.*

6. The Speaker of the Assembly or the Majority Leader of the Senate may excuse a Legislator from attending a training session otherwise required pursuant to this section in case of illness, injury, emergency, employment or other good cause as determined by the Speaker or Majority Leader.

7. ~~The~~ *Except as otherwise provided in this subsection, the* Director shall provide an electronic copy of a training session and a form for attesting completion of the training session to any Legislator who was unable to attend the training session. *If any training session is conducted in a manner that the Director determines cannot reasonably be recorded in an electronic format, the Director may provide for an alternate means of recording the information provided during that training session.* To successfully complete the training required pursuant to this section, ~~such~~ a Legislator ~~must view the~~ *who was unable to attend a training session ~~electronically~~ shall complete that session in the manner prescribed by the Director and submit the attestation to the Director.*

8. The Director shall issue a "Certificate of Graduation from the Legislative Training Academy" to each Legislator who successfully completes the training required pursuant to this section.

Sec. 2. NRS 218D.050 is hereby amended to read as follows:

218D.050 1. The Legislative Counsel and the Legal Division shall not prepare or assist in the preparation of legislative measures for or during a regular session unless:

(a) Authorized by NRS 218D.100 to ~~218D.215,~~ *218D.210*, inclusive, another specific statute, a joint rule or a concurrent resolution; or

(b) Directed by the Legislature or the Legislative Commission.

2. The Legislative Counsel and the Legal Division shall not prepare or assist in the preparation of legislative measures for or during a special session unless:

- (a) Authorized by a joint rule or concurrent resolution; or
- (b) Directed by the Legislature or the Legislative Commission.

3. During a regular or special session, the Legislative Counsel and the Legal Division shall provide the Legislature with legal, technical and other appropriate services concerning any legislative measure properly before the Legislature or any committee of the Legislature for consideration.

Sec. 3. NRS 218D.100 is hereby amended to read as follows:

218D.100 1. The provisions of NRS 218D.100 to ~~[218D.215,]~~ 218D.210, inclusive, apply to requests for the drafting of legislative measures for a regular session.

2. Except as otherwise provided by a specific statute, joint rule or concurrent resolution, the Legislative Counsel shall not honor a request for the drafting of a legislative measure if the request:

(a) Exceeds the number of requests authorized by NRS 218D.100 to ~~[218D.215,]~~ 218D.210, inclusive, for the requester; or

(b) Is submitted by an authorized nonlegislative requester pursuant to NRS 218D.175 to ~~[218D.215,]~~ 218D.210, inclusive, but is not in a subject related to the function of the requester.

3. The Legislative Counsel shall not:

(a) Except as otherwise provided in NRS 218D.150, 218D.155 and 218D.160, assign a number to a request for the drafting of a legislative measure to establish the priority of the request until sufficient detail has been received to allow complete drafting of the legislative measure.

(b) Honor a request to change the subject matter of a request for the drafting of a legislative measure after it has been submitted for drafting.

(c) Honor a request for the drafting of a legislative measure which has been combined in violation of Section 17 of Article 4 of the Nevada Constitution.

Sec. 4. NRS 218D.105 is hereby amended to read as follows:

218D.105 1. Upon a finding that exceptional circumstances so warrant, the Legislative Commission when the Legislature is not in a regular session, or a standing committee which has jurisdiction of the subject matter when the Legislature is in a regular session, may grant a waiver to an authorized nonlegislative requester to submit a request for the drafting of a legislative measure after the time limits in NRS 218D.175 to ~~[218D.215,]~~ 218D.210, inclusive.

2. The request for the waiver must be submitted in writing to the Legislative Commission or standing committee, as appropriate, explaining the exceptional circumstances.

Sec. 5. NRS 218D.115 is hereby amended to read as follows:

218D.115 1. The Legislative Counsel shall assist authorized nonlegislative requesters in the drafting of the legislative measures which they are authorized to request pursuant to NRS 218D.175 to ~~[218D.215,]~~ 218D.210, inclusive.

2. To ensure the greatest possible equity in the handling of such requests, drafting must proceed as follows:

(a) Requests from each agency or officer of the Executive Department or from a county, school district or city must, insofar as is possible, be acted upon in the order in which they are received, unless a different priority is designated by the requester.

(b) As soon as an agency or officer of the Executive Department has requested 10 legislative measures for a regular session, the Legislative Counsel may request the agency or officer to designate the priority for each succeeding request.

3. The priority designated pursuant to this section must guide the Legislative Counsel in acting upon the requests of the respective agencies and officers of the Executive Department and the counties, school districts and cities to ensure each agency and officer, and each county, school district and city, as nearly as is possible, an equal rank.

Sec. 6. NRS 218D.150 is hereby amended to read as follows:

218D.150 1. Except as otherwise provided in ~~subsection 2,~~ *this section*, each:

(a) Incumbent member of the Assembly may request the drafting of ~~not~~ :

(1) *Not more than ~~6~~ 4 legislative measures submitted to the Legislative Counsel on or before ~~September~~ August 1 preceding a regular session ~~and not~~ ;*

(2) *Not more than 5 legislative measures submitted to the Legislative Counsel after ~~September~~ August 1 but on or before December 10 preceding a regular session ~~;~~ ; and*

(3) *Not more than ~~2~~ 1 legislative ~~measures~~ measure submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.*

(b) Incumbent member of the Senate may request the drafting of ~~not~~ :

(1) *Not more than ~~12~~ 8 legislative measures submitted to the Legislative Counsel on or before ~~September~~ August 1 preceding a regular session ~~and not~~ ;*

(2) *Not more than 10 legislative measures submitted to the Legislative Counsel after ~~September~~ August 1 but on or before December 10 preceding a regular session ~~;~~ ; and*

(3) *Not more than 2 legislative measures submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.*

(c) Newly elected member of the Assembly may request the drafting of ~~not~~ :

(1) *Not more than 5 legislative measures submitted to the Legislative Counsel on or before December 10 preceding a regular session ~~;~~ ; and*

(2) *Not more than ~~2~~ 1 legislative ~~measures~~ measure submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.*

(d) Newly elected member of the Senate may request the drafting of ~~not~~

(1) *Not more than 10 legislative measures submitted to the Legislative Counsel on or before December 10 preceding a regular session ~~1~~; and*

(2) *Not more than 2 legislative measures submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.*

2. A Legislator may not request the drafting of a legislative measure pursuant to subsection 1 on or after the date on which the Legislator becomes a nonreturning Legislator. For the purposes of this subsection, "nonreturning Legislator" means a Legislator who, in the year that the Legislator's term of office expires:

(a) Has not filed a declaration or an acceptance of candidacy within the time allowed for filing for election as a member of the Senate or the Assembly;

(b) Has failed to win nomination as a candidate for the Senate or the Assembly at the primary election; or

(c) Has withdrawn as a candidate for the Senate or the Assembly.

3. *A Legislator may not request the drafting of a legislative measure pursuant to paragraph (a) or (b) of subsection 1 on or after the date on which the Legislator files a declaration or an acceptance of candidacy for election to the House in which he or she is not currently a member. If the Legislator is elected to the other House, any request that he or she submitted pursuant to paragraph (a) or (b) of subsection 1 before filing his or her declaration or acceptance of candidacy for election counts against the applicable limitation set forth in paragraph (c) or (d) of subsection 1 for the House in which the Legislator is a newly elected member.*

4. If a request made pursuant to subsection 1 is submitted:

(a) On or before ~~September~~ August 1 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before ~~December~~ November 1 preceding the regular session.

(b) After ~~September~~ August 1 but on or before December 10 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before January ~~15~~ 1 preceding the regular session.

~~4~~ (c) *After a regular session has convened but on or before the 8th day of the regular session at 5 p.m., sufficient detail to allow complete drafting of the legislative measure must be submitted on or before the 15th day of the regular session.*

5. In addition to the number of requests authorized pursuant to subsection 1:

(a) The chair of each standing committee of the immediately preceding regular session, or a person designated in the place of the chair by the Speaker of the Assembly or the Majority Leader of the Senate, may request

before the date of the general election preceding a regular session the drafting of not more than 1 legislative measure for introduction by the committee in a subject within the jurisdiction of the committee for every ~~{15}~~ 18 legislative measures that were referred to the respective standing committee during the immediately preceding regular session.

(b) A person designated after the general election as a chair of a standing committee for the next regular session, or a person designated in the place of a chair by the person designated as the Speaker of the Assembly or the Majority Leader of the Senate for the next regular session, may request on or before December 10 preceding that regular session the drafting of the remaining number of the legislative measures allowed for the respective standing committee that were not requested by the previous chair or designee.

~~{5}~~ 6. If a request made pursuant to subsection ~~{4}~~ 5 is submitted:

(a) Before the date of the general election preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before December 10 preceding the regular session.

(b) After the date of the general election but on or before December 10 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before January ~~{15}~~ 1 preceding the regular session.

~~{6}~~ 7. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.

Sec. 7. NRS 218D.160 is hereby amended to read as follows:

218D.160 1. The Chair of the Legislative Commission may request the drafting of not more than ~~{15}~~ 10 legislative measures before the first day of a regular session, with the approval of the Legislative Commission, which relate to the affairs of the Legislature or its employees, including legislative measures requested by the legislative staff.

2. The Chair of the Interim Finance Committee may request the drafting of not more than 10 legislative measures before the first day of a regular session, with the approval of the Committee, which relate to matters within the scope of the Committee.

3. If a request made pursuant to subsection 1 or 2 is submitted before the first day of a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before March 1 of the regular session.

4. Except as otherwise provided by a specific statute, joint rule or concurrent resolution:

(a) Any legislative committee created by a statute, other than an interim legislative committee, may request the drafting of not more than 10 legislative measures which relate to matters within the scope of the committee.

(b) Any committee or subcommittee established by an order of the Legislative Commission pursuant to NRS 218E.200 may request the drafting

of not more than 5 legislative measures which relate to matters within the scope of the study or investigation, except that such a committee or subcommittee may request the drafting of additional legislative measures if the Legislative Commission approves each additional request by a majority vote.

(c) Any other committee established by the Legislature which conducts an interim legislative study or investigation may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study or investigation.

↪ The requests authorized pursuant to this subsection must be submitted to the Legislative Counsel on or before September 1 preceding a regular session unless the Legislative Commission authorizes submitting a request after that date.

5. If a request made pursuant to subsection 4 is submitted on or before September 1 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before ~~December~~ *November* 1 preceding the regular session.

6. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.

Sec. 8. NRS 218D.175 is hereby amended to read as follows:

218D.175 1. For a regular session, the Governor or the Governor's designated representative may request the drafting of ~~not~~ :

(a) *Not more than ~~100~~ 50 legislative measures submitted to the Legislative Counsel on or before July 1 preceding the regular session; and*

(b) *Not more than 50 legislative measures submitted to the Legislative Counsel after July 1 but on or before September 1 preceding the regular session,*

↪ *which have been approved by the Governor or the Governor's designated representative on behalf of the officers, agencies, boards, commissions, departments and other units of the Executive Department. ~~[The requests must be submitted to the Legislative Counsel on or before September 1 preceding the regular session.]~~*

2. The Department of Administration may request on or before the 19th day of a regular session, without limitation, the drafting of as many legislative measures as are necessary to implement the budget proposed by the Governor and to provide for the fiscal management of the State. In addition to the requests otherwise authorized pursuant to this section, the Governor may request the drafting of not more than 5 legislative measures on or before the 19th day of a regular session to propose the Governor's legislative agenda.

3. For a regular session, the following constitutional officers may request, without the approval of the Governor or the Governor's designated representative, the drafting of not more than the following numbers of legislative measures, which must be submitted to the Legislative Counsel on or before September 1 preceding the regular session:

Lieutenant Governor[1] 3
 Secretary of State [5] ~~6~~ 6
 State Treasurer..... [2] 5
 State Controller [2] 5
 Attorney General [15] 20

4. In addition to the requests authorized by subsection 3, the Secretary of State may request, without the approval of the Governor or the Governor's designated representative, the drafting of not more than 2 legislative measures, which must be submitted to the Legislative Counsel on or before December 1 preceding the regular session. Sufficient detail to allow complete drafting of the legislative measures requested pursuant to this subsection must be submitted on or before December 31 preceding the regular session.

5. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to subsections 1 and 3 must be prefiled on or before December 20 preceding the regular session. A legislative measure that is not prefiled on or before that date shall be deemed withdrawn.

Sec. 9. NRS 218D.205 is hereby amended to read as follows:

218D.205 1. For a regular session, each board of county commissioners, board of trustees of a school district and city council may request the drafting of not more than the numbers of legislative measures set forth in this section if the requests are:

- (a) Approved by the governing body of the county, school district or city at a public hearing before their submission to the Legislative Counsel; and
- (b) Submitted to the Legislative Counsel on or before September 1 preceding the regular session.

2. The Legislative Counsel shall notify the requesting county, school district or city if its request substantially duplicates a request previously submitted by another county, school district or city.

3. The board of county commissioners of a county whose population:

- (a) Is 700,000 or more may request the drafting of not more than 4 legislative measures for a regular session.
- (b) Is 100,000 or more but less than 700,000 may request the drafting of not more than 2 legislative measures for a regular session.
- (c) Is less than 100,000 may request the drafting of not more than 1 legislative measure for a regular session.

4. The board of trustees of a school district in a county whose population:

- (a) Is 700,000 or more may request the drafting of not more than 2 legislative measures for a regular session.
- (b) Is less than 700,000 may request the drafting of not more than 1 legislative measure for a regular session.

5. The city council of a city whose population:

(a) Is ~~{150,000}~~ 500,000 or more may request the drafting of not more than 3 legislative measures for a regular session.

(b) Is 150,000 or more but less than 500,000 may request the drafting of not more than 2 legislative measures for a regular session.

(c) Is less than 150,000 may request the drafting of not more than 1 legislative measure for a regular session.

6. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to this section must be prefiled on or before December 20 preceding the regular session. A legislative measure that is not prefiled on or before that date shall be deemed withdrawn.

7. As used in this section, "population" means the current population estimate for that city or county as determined and published by the Department of Taxation and the demographer employed pursuant to NRS 360.283.

Sec. 10. NRS 218D.575 is hereby amended to read as follows:

218D.575 1. A Legislator who will be a member of the next regular session may request the Legislative Counsel to prefile any bill or joint resolution that was requested by that Legislator for introduction in the next regular session.

2. A Legislator designated as a chair of a standing committee for the next regular session may request the Legislative Counsel to prefile on behalf of the committee any bill or joint resolution within the jurisdiction of the committee for introduction in the next regular session.

3. ~~{The}~~ All bills and joint resolutions requested by authorized nonlegislative requesters and submitted for prefilng pursuant to NRS 218D.175 to ~~{218D.215,}~~ 218D.210, inclusive, must be ~~{~~

~~(a) Randomly}~~ randomly divided in equal amounts between the Senate and the Assembly and prefiled on behalf of the appropriate standing committee.

~~{(b) Prepared}~~

4. The Legislative Counsel shall prepare all bills and joint resolutions submitted for prefilng in final and correct form for introduction in the Legislature as required by the Nevada Constitution and this chapter.

~~{4.}~~ 5. The Legislative Counsel shall not prefile a bill or joint resolution requested by:

(a) A Legislator who is not a candidate for reelection until after the general election immediately preceding the regular session.

(b) A Legislator who is elected or reelected to legislative office at the general election immediately preceding the regular session until the Legislator is determined to have received the highest number of votes pursuant to the canvass of votes required by NRS 293.395.

Sec. 11. NRS 432B.178 is hereby amended to read as follows:

432B.178 1. The Director of the Department of Health and Human Services may create an interagency committee to evaluate the child welfare

system in this State. Any such evaluation must include, without limitation, a review of state laws to ensure that the state laws comply with federal law and to ensure that the state laws reflect the current practices of each agency which provides child welfare services and others involved in the child welfare system.

2. The Director may appoint as many members to the interagency committee as the Director deems appropriate except that the members of such a committee must include, without limitation, at least one person to represent:

- (a) Each agency which provides child welfare services;
- (b) The Department of Education;
- (c) The juvenile justice system;
- (d) Law enforcement; and
- (e) Providers of treatment or services for persons in the child welfare system.

~~3. [The interagency committee created pursuant to subsection 1 may directly request the Legislative Counsel and the Legal Division of the Legislative Counsel Bureau to prepare one legislative measure for a regular legislative session if it determines that changes in legislation are necessary. Any such request must be submitted to the Legislative Counsel on or before September 1 preceding the commencement of a regular session of the Legislature. Upon completion of the proposed legislation, the Legislative Counsel shall transmit any legislative measure prepared pursuant to this subsection to the appropriate standing committee of the Assembly or Senate within the first week of the next regular legislative session for introduction.]~~

~~4.]~~ The interagency committee created pursuant to subsection 1 shall, on or before January 1 of each odd-numbered year after it is created, submit to the Director of the Legislative Counsel Bureau a written report for transmittal to the Chairs of the Assembly and Senate Standing Committees on Judiciary, the Chair of the Assembly Committee on Health and Human Services and the Chair of the Senate Committee on Health and Education.

Sec. 12. NRS 218D.215 is hereby repealed.

Sec. 13. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

218D.215 Requests from mental health consortium.

1. For a regular session, each mental health consortium established pursuant to NRS 433B.333 may request the drafting of not more than 1 legislative measure. The request must be submitted to the Legislative Counsel on or before September 1 preceding the regular session.

2. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to this section must be prefiled on or before December 20 preceding the regular session. A legislative measure that is not prefiled on or before that date shall be deemed withdrawn.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

Thank you, Mr. President. Amendment No. 924 to Assembly Bill No. 412 relates to legislative business: (1) the number of bill draft requests available to Assembly members after the start of a regular Session is reduced from two measures to one measure; and (2) the Secretary of State is permitted to request not more than two bill drafts by December 1 prior to the start of a regular Session. Sufficient details to draft these bill draft requests must be provided no later than December 31.

Amendment adopted.

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

Assembly Bill No. 454.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 1.

Bill read third time.

Remarks by Senator Segerblom.

Thank you, Mr. President. Assembly Bill No. 1 requires the Director of the Department of Health and Human Services to include in the State Plan for Medicaid coverage of certain costs of emergency care, including dialysis, to stabilize patients with kidney failure. This will help the University Medical Center in Las Vegas with dialysis patients to be treated under Medicaid.

Roll call on Assembly Bill No. 1:

YEAS—21.

NAYS—None.

Assembly Bill No. 1 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that Assembly Bill No. 7 be taken from the General File and placed on the Secretary's Desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 24.

Bill read third time.

Remarks by Senators Manendo and Smith.

SENATOR MANENDO:

Thank you, Mr. President. Assembly Bill No. 24 provides for the issuance of a special license plate to commemorate the 150th anniversary of Nevada's admission into the Union.

In addition to certain other fees and taxes, a \$25 fee for the initial issuance of the plates and a \$20 fee for each renewal is to be distributed to the Nevada Cultural Affairs Foundation and used for a 150th anniversary celebration and related projects. This is an important bill that issues a beautiful license plate. I urge your support.

SENATOR SMITH:

Thank you, Mr. President. I rise in support of Assembly Bill No. 24. I am breaking my tradition of voting against license-plate bills. Since the sesquicentennial only happens once in 150 years, I will make the exception.

Roll call on Assembly Bill No. 24:

YEAS—21.
NAYS—None.

Assembly Bill No. 24 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 31.

Bill read third time.

Remarks by Senator Spearman.

Thank you, Mr. President. Assembly Bill No. 31 requires the head of each agency, bureau, board, commission, department, division or any other unit of the Executive Department of State Government, except the Nevada System of Higher Education, to designate one or more employees of the agency to act as records official for the agency. The measure requires the Administrator of the State Library and Archives, in cooperation with the Attorney General, to prescribe by regulation: (1) the form to be used to request a public record from an agency; (2) the form to be used by the agency to respond to a public record request; and (3) the procedures that a records official must follow when complying with a public record request. These forms and procedures must be available on the agency's website. Finally, the measure compiles a list of existing statutory exceptions to the Nevada Public Records Act within one section of the *Nevada Revised Statutes*. This measure is effective on October 1, 2013.

Roll call on Assembly Bill No. 31:

YEAS—21.
NAYS—None.

Assembly Bill No. 31 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 67.

Bill read third time.

Remarks by Senators Segerblom, Jones, Hutchison and Cegavske.

SENATOR SEGERBLOM:

Thank you, Mr. President. Assembly Bill No. 67 defines the crime of sex trafficking separately from the crime of pandering. This is a major piece of legislation that our Attorney General has created and brought to us with the help of lots and lots of churches and other organizations around both the State and the country. It is a major effort. I commend everyone for it.

I want to make it clear on the record that this crime does not deal with a tourist who shows up in Las Vegas and, for better or worse, offers someone money for prostitution. This is intended for the worst-of-the-worst people—those who groom young females and males into the life of prostitution. It is important that we take note this bill is focused on those really bad actors. It does not reach out and define those who pander or engage in other minor acts. We are targeting serious offenders who will be labeled as sex offenders in addition to major crimes upward to a Category A felony. It is important we focus on those people.

I commend the Attorney General for bringing this bill to the Legislature. I also commend the interest groups and church groups who have really fought to make this bill happen.

SENATOR JONES:

Thank you, Mr. President. I rise in strong support of Assembly Bill No. 67. When we had the early joint hearings in Committee, my friend Amy Ayoub was in the audience. I greeted her as I walked in. I had no idea when I said hello that she would be testifying about her experience earlier in life of being beaten and repeatedly intimidated by a pimp as a victim of sex trafficking.

It was hard to choke back the tears as I listened to her harrowing story, which she courageously shared publicly for the first time that day.

We also heard the story of Andrea Swanson, a mom from an average suburban area whose teenage daughter was unwittingly lured by a boyfriend into the sex trade. Thank you to Attorney General Catherine Cortez-Masto for her persistent and passionate dedication to this issue. She and her office did the hard work for months before this Session and all throughout this Session to make sure this important legislation passed—important legislation that will ensure parents, like Andrea Swanson, never have to go through what she has gone through, or what my friend Amy has gone through. I urge all of my colleagues' strong support for this bill.

SENATOR HUTCHISON:

Thank you, Mr. President. I want to join with my colleagues from Senate District No. 9 and Senate District No. 3 in urging strong support for Assembly Bill No. 67. I am on the Senate Committee on Judiciary, and I listened to the riveting and compelling testimony from family members and victims of human trafficking. Law enforcement witnesses testified about pimps who groom young girls and boys, and even adults—they would in some instances tattoo them like cattle to show ownership of the victims. The victims were beaten repeatedly. There was testimony that these victims would be deprived of education, food, privacy and forced to engage in sex to survive. There was some testimony by those who wanted to focus on defendants who may get caught up in this situation, suggesting that perhaps consent should be a defense. We debated that in Committee. The best statement I heard from one witness was “consent is rarely available for these victims—it is really an absence of choice.” That hit home with me. We should do all we can to ensure we are protecting these victims, and that we end this violent, criminal activity. I urge your support.

SENATOR CEGAUSKE:

Thank you, Mr. President. I rise in support of Assembly Bill No. 67. I want to thank my colleague from Senate District No. 3 for his support and ask him, along with others in the local communities; there is a bill that was brought forward—I will use the “street language” and refer to them as “juice bars”—that goes along with Assembly Bill No. 67. I hope these two bills, together, can help these young people who are victims. I also thank the religious groups that have come forward. In my congregation at my church, they brought people to testify about what happened to them in order to educate the congregations about what is happening on the streets of Las Vegas. They had town hall meetings and gatherings on a regular basis. Many were in this building, walking the halls and talking to everyone about this.

I listened to the testimony from my office. I know Amy Ayoub. I was proud of her for coming forward. As a mother and a grandmother, these are touching stories. How distressing it would be to have your daughter, a son or grandchild involved in this in some way. We have learned a lot in my church congregation, and I know many others have been educated on this matter. I hope these groups will continue to fight for these issues, and that we will not forge the victims. I hope we continue to make sure this stays alive in our minds, and that we keep fighting for their safety.

Roll call on Assembly Bill No. 67:

YEAS—21.

NAYS—None.

Assembly Bill No. 67 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 80.

Bill read third time.

Remarks by Senator Hardy.

Thank you, Mr. President. Assembly Bill No. 80 creates the Task Force on Alzheimer's Disease within the Department of Health and Human Services. The Director of Department of

Health and Human Services appoints seven voting members, and the Legislative Commission appoints two voting members: one from the Senate and one from the Assembly. The Task Force must carry out the State Plan to address Alzheimer's disease as developed, revise the plan as needed, prioritize action steps and research any other issues relevant to Alzheimer's disease. Additionally, the Task Force must submit an annual report to the Governor and Director of the Legislative Counsel Bureau with findings and recommendations.

Roll call on Assembly Bill No. 80:

YEAS—21.

NAYS—None.

Assembly Bill No. 80 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 228.

Bill read third time.

Remarks by Senator Settelmeyer.

Thank you, Mr. President. Assembly Bill No. 228 authorizes a provider of health care who is licensed or certified in this State or in another state or territory to provide voluntary health-care services without compensation if those services are provided in association with a sponsoring organization. The bill requires a sponsoring organization to register with the Health Division of the Department of Health and Human Services and file quarterly reports containing information on the services delivered by voluntary health-care providers. This bill is effective upon passage and approval for the purpose of adopting regulations and carrying out preparatory administrative tasks and on October 1, 2013, for all other purposes.

Roll call on Assembly Bill No. 228:

YEAS—21.

NAYS—None.

Assembly Bill No. 228 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 311.

Bill read third time.

Remarks by Senator Segerblom.

Thank you, Mr. President. Assembly Bill No. 311 creates the Contingency Account for Victims of Human Trafficking to be administered by the Director of the Department of Health and Human Services. This is a companion piece to Assembly Bill No. 67 which we passed earlier today.

Roll call on Assembly Bill No. 311:

YEAS—21.

NAYS—None.

Assembly Bill No. 311 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 344.

Bill read third time.

Remarks by Senator Hardy.

Thank you, Mr. President. Assembly Bill No. 344 requires the State Board of Health to adopt a Physician Order for Life-Sustaining Treatment form. The bill prescribes who may execute and revoke a Physician Order for Life-Sustaining Treatment form, resolves potential conflicts between the form and other advance directives, and provides similar immunities and protections to health care providers as with other advance directives. Physicians must explain to a patient the availability of the Physician Order for Life-Sustaining Treatment form and how it differs from an advance directive if: (1) a physician diagnoses a patient with a terminal condition; (2) a patient's life expectancy is less than five years; or (3) a patient requests it. Additionally, the bill prohibits life insurance or health care from being withheld due to an executed Physician Order for Life-Sustaining Treatment form. It recognizes Physician Order for Life-Sustaining Treatment forms executed in other states as valid in Nevada. It allows a Physician Order for Life-Sustaining Treatment form to be included in the Registry of Advance Directives for Health Care. It also allows a patient to apply for a do-not-resuscitate identification card.

Roll call on Assembly Bill No. 344:

YEAS—21.

NAYS—None.

Assembly Bill No. 344 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 362.

Bill read third time.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Assembly Bill No. 362 requires the State Board of Pharmacy to establish, maintain and adopt regulations for a HIV/AIDS Drug Donation Program. A drug used to treat the human immunodeficiency virus or acquired immunodeficiency syndrome can be donated by any person to a participating pharmacy, medical facility, health clinic or provider of health care if the drug is in the original, unopened and sealed package and not adulterated or misbranded. A person who accepts a donated drug must sign a waiver of liability. Immunity from civil and criminal liability is provided to a: person donating a drug, participating pharmacy, medical facility, health clinic or provider of health care handling a drug or a manufacturer of a drug, when reasonable care is exercised.

Roll call on Assembly Bill No. 362:

YEAS—21.

NAYS—None.

Assembly Bill No. 362 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 370.

Bill read third time.

Remarks by Senator Ford.

Thank you, Mr. President. Assembly Bill No. 370 revises the procedures for resolving disputes over the application, enforcement or interpretation of the governing documents of a common-interest community. The bill requires disputes to be submitted to mediation prior to commencement of civil action in court or, if the parties agree, to a referee program that may be established by the Real Estate Division, Department of Business and Industry. The bill requires the parties in a mediation to file written statements setting forth the issues in dispute, requires mediation to be completed within three hours unless the parties agree to extend the time, and establishes maximum fees that may be charged for mediation. The measure also authorizes the

parties to enter into binding or nonbinding arbitration if the parties do not reach an agreement through mediation or a referee program. This measure is effective on October 1, 2013.

Roll call on Assembly Bill No. 370:

YEAS—21.

NAYS—None.

Assembly Bill No. 370 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 408.

Bill read third time.

Remarks by Senator Hammond.

Thank you, Mr. President. Assembly Bill No. 408 requires a State agency to make a concerted effort to determine the impact of a proposed regulation and to conduct, or cause to be conducted, an analysis of the likely impact of it on small businesses. The governing body of a local government is similarly charged with determining the impact of a proposed rule on small businesses. A copy of the small business impact statement must be submitted to the Legislative Counsel when the adopted regulation is submitted, and the Legislative Counsel must return the regulation to the agency if it is not. The Legislative Commission or the Subcommittee to Review Regulations may reject a regulation if the small business impact statement submitted is inaccurate, incomplete or did not adequately consider or significantly underestimated the economic effect of the regulation on small businesses.

The measure requires a State agency to include a statement of the reasons for the agency's conclusions regarding a regulation's impact on a small business in its small business impact statement, and the director, executive head or other person who is responsible for the agency must sign the statement certifying that the information was prepared properly and is accurate to the best of his or her knowledge. There is a similar provision for a county manager, city manager or other chief executive officer for the governing body of a local government to do the same with a proposed new rule. Finally, a State agency must submit to the Legislative Counsel, for submission to the Legislative Commission or the Subcommittee, any petition it receives from a business that is aggrieved by a regulation.

Roll call on Assembly Bill No. 408:

YEAS—21.

NAYS—None.

Assembly Bill No. 408 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 414.

Bill read third time.

Remarks by Senator Woodhouse.

Thank you, Mr. President. Assembly Bill No. 414 requires a course of study in health education established by the State Board of Education to include instruction in cardiopulmonary resuscitation and the use of an automated external defibrillator. This instruction must be provided, to the extent money is available for this purpose, to students enrolled in a high school, a middle school or a junior high school including a charter school with such grade levels. These provisions also apply to a private school that offers a course of study in health. Students with disabilities and those enrolled in a public, charter or private school through a program of distance education are exempt from the requirements of the bill. This bill is effective on July 1, 2013.

Roll call on Assembly Bill No. 414:

YEAS—21.

NAYS—None.

Assembly Bill No. 414 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 419.

Bill read third time.

Remarks by Senator Parks.

Thank you, Mr. President. Assembly Bill No. 419 increases the number of members of the Board of the Public Employees' Benefits Program from nine members to ten by adding an additional member who is retired from public employment and appointed by the Governor. This measure is effective upon passage and approval.

Roll call on Assembly Bill No. 419:

YEAS—21.

NAYS—None.

Assembly Bill No. 419 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 436.

Bill read third time.

Remarks by Senator Hardy.

Thank you, Mr. President. Assembly Bill No. 436 requires the Public Utilities Commission of Nevada to adopt regulations specifying the information and criteria it will consider when reviewing a request to: (1) recover an amount based on the anticipated effects of a water-conservation plan; (2) recover the costs of providing service without regard to the quantity of water sold; and (3) impose a surcharge to fund and encourage infrastructure investments. This bill is effective on July 1, 2013.

Roll call on Assembly Bill No. 436:

YEAS—21.

NAYS—None.

Assembly Bill No. 436 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 480.

Bill read third time.

Remarks by Senator Parks.

Thank you, Mr. President. Assembly Bill No. 480 requires the Tahoe Regional Planning Agency to annually provide the Governor and the Director of the Legislative Counsel Bureau with: (1) a copy of the Agency's most recent independent audit report; (2) a report detailing the nature and purpose of the expenditures made by the Agency during the previous calendar year from money appropriated by the Legislature; and (3) a report detailing the progress of the Agency in achieving the performance measures and benchmarks included in its current biennial budget. The bill also requires the Tahoe Regional Planning Agency to submit its proposed budget to the Director of the Department of Administration and the Fiscal Analysis Division of

the Legislative Counsel Bureau by September 1 of even-numbered years. Lastly, the bill implements recommendations included in the Executive Budget. This act becomes effective July 1, 2013.

Roll call on Assembly Bill No. 480:

YEAS—21.

NAYS—None.

Assembly Bill No. 480 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 499.

Bill read third time.

Remarks by Senator Hutchison.

Thank you, Mr. President. Assembly Bill No. 499 corrects various errors in *Nevada Revised Statutes* and *Statutes of Nevada*.

Roll call on Assembly Bill No. 499:

YEAS—21.

NAYS—None.

Assembly Bill No. 499 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 92.

The following Assembly Amendment was read:

Amendment No. 898.

"SUMMARY—Makes certain changes related to the health of infants. (BDR 40-529)"

"AN ACT relating to public health; requiring that infants born in certain institutions be examined for critical congenital heart disease; providing an exception for written parental objection; requiring certain hospitals to submit certain information to the Health Division of the Department of Health and Human Services; authorizing the Division to provide this information to an entity to conduct a study of the effectiveness of pulse oximetry screening; requiring the Division to submit a report under certain circumstances to the Director of the Legislative Counsel Bureau for submittal to the Legislative Committee on Health Care and the Legislative Commission; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Any]~~ Under existing law, a physician, midwife, nurse, obstetric center or hospital attending or assisting any infant, or the mother of any infant, at childbirth is required to examine and test the infant for certain preventable and inheritable disorders. If the tests reveal such a disorder, the physician, midwife, nurse, obstetric center or hospital is required to: (1) report the condition to the State Health Officer, the local health officer of the county or

city within which the infant or the mother of the infant resides, and the local health officer of the county or city in which the child is born; and (2) discuss the condition and treatment of the condition with the parents or other persons responsible for the care of the infant. (NRS 442.008) Section 1 of this bill requires any physician, midwife or nurse attending or assisting any infant at childbirth at an obstetric center or a hospital which regularly offers obstetric services in the normal course of business to examine the infant for critical congenital heart disease, including conducting pulse oximetry screening, and to report any results indicating the infant may suffer from critical congenital heart disease to the attending physician of the infant. Section 1 also requires the attending physician of an infant whose test results have indicated that the infant may suffer from critical congenital heart disease to conduct an examination to determine if the infant does suffer from critical congenital heart disease. If the attending physician determines that the infant suffers from critical congenital heart disease, the attending physician is required to report the condition to the State Health Officer and discuss such results with the parent of or other person responsible for the infant. Section 1 provides an exception to the requirement for examination in the event of written parental objection. Section 3 of this bill makes the provisions of section 1 become effective on July 1, 2015.

Section 2 of this bill requires, during the period between July 1, 2013, and March 1, 2014, a hospital that conducts pulse oximetry screening to submit the positive results of such screening and certain information concerning these results to the Health Division of the Department of Health and Human Services. Section 2 also authorizes the Division to provide the information to an entity to study this information. If a study is conducted, the study must: (1) evaluate the effectiveness of the pulse oximetry screening; and (2) formulate recommendations concerning the implementation of the requirements prescribed by section 1. Section 2 further requires the Division, if a study is conducted, to submit a report containing the results of the study to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Committee on Health Care and the Legislative Commission. Finally, Section 2 requires the Legislative Committee on Health Care, if a study is conducted, to use the report to formulate recommendations concerning the implementation of these requirements.

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

Section 1. Chapter 442 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection 3, any physician, midwife or nurse attending or assisting in any way any infant at childbirth at an obstetric center or a hospital which regularly offers obstetric services in the normal course of business and not only on an emergency basis shall make or cause to be made an examination of the infant, to determine whether the infant may suffer from critical congenital heart disease, including, without*

limitation, conducting pulse oximetry screening. If the physician, midwife or nurse who conducts the examination is not the attending physician of the infant, the physician, midwife or nurse shall submit the results of the examination to the attending physician of the infant.

2. If the examination reveals that an infant may suffer from critical congenital heart disease, the attending physician of the infant shall conduct an examination to confirm whether the infant does suffer from critical congenital heart disease. If the attending physician determines that the infant suffers from critical congenital heart disease, the attending physician must:

(a) Report the condition to the State Health Officer or a representative of the State Health Officer; and

(b) Discuss the condition with the parent, parents or other persons responsible for the care of the infant and inform them of the treatment necessary for the amelioration of the condition.

3. An examination of an infant is not required pursuant to this section if either parent files a written objection with the person responsible for conducting the examination or with the obstetric center or hospital at which the infant is born.

4. The State Board of Health may adopt such regulations as necessary to carry out the provisions of this section.

Sec. 2. 1. During the period beginning on July 1, 2013, and ending on March 1, 2014, if a hospital conducts pulse oximetry screening to determine whether an infant suffers from critical congenital heart disease and the results of such screening are positive, the hospital shall submit to the Health Division of the Department of Health and Human Services:

(a) The positive results;

(b) Information concerning whether critical congenital heart disease was detected in the infant before the pulse oximetry screening; and

(c) Information concerning measures taken by the hospital because of the positive result, including, without limitation, measures taken to verify the positive result and to provide follow-up care and treatment to the infant.

2. The Division may make the information submitted pursuant to subsection 1 available to an entity to study. If a study is conducted pursuant to this subsection, the entity must, without limitation:

(a) Evaluate, based on the information, the effectiveness of the pulse oximetry screening; and

(b) Formulate recommendations concerning the implementation of section 1 of this act.

3. Except as otherwise provided in subsection 2, the Division shall keep confidential all personal identifying information contained in the information submitted pursuant to subsection 1. Any entity to which information is made available pursuant to subsection 2 shall keep confidential all personal identifying information contained within the information made available to the entity pursuant to subsection 2.

4. If a study is conducted pursuant to subsection 2, on or before April 1, 2014, the Division shall submit a report of the results of the study to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Committee on Health Care and the Legislative Commission. The report must include, without limitation, recommendations concerning the implementation of section 1 of this act.

5. If a study is conducted pursuant to subsection 2, the Legislative Committee on Health Care shall study the report submitted pursuant to subsection 4 and provide to the Legislature, as a result of its consideration of the report, any recommendations for legislation concerning the implementation of section 1 of this act.

6. As used in this section, "personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person.

Sec. 3. 1. This section and section 2 of this act become effective on July 1, 2013.

2. Section 1 of this act becomes effective on ~~October 1, 2014.~~
July 1, 2015.

Senator Jones moved that the Senate concur in the Assembly Amendment No. 898 to Senate Bill No. 92.

Motion carried by a constitutional majority.

Bill ordered enrolled.

RECEDE FROM SENATE AMENDMENTS

Senator Segerblom moved that the Senate do not recede from its action on Assembly Bill No. 98, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Kihuen, Jones and Hammond as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 98.

RECEDE FROM SENATE AMENDMENTS

Senator Atkinson moved that the Senate do not recede from its action on Assembly Bill No. 349, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Hardy, Jones and Hutchison as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 349.

President Krolicki appointed Senators Jones, Manendo and Goicoechea as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Joint Resolution No. 9.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which was referred Assembly Bill No. 213, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce, Labor and Energy, to which were referred Assembly Bills Nos. 153, 435, 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 Finance, to which was referred Assembly Bill No. 464, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was referred Senate Bill No. 500, 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 Finance, to which was re-referred Senate Bill No. 261, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Mr. President:

Your Committee on Transportation, to which were referred Assembly Bills Nos. 151, 309, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARK A. MANENDO, *Chair*

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 521—AN ACT relating to state financial administration; authorizing expenditures by various officers, departments, boards, agencies, commissions and institutions of the State Government for the 2013-2015 biennium; authorizing the collection of certain amounts from the counties for the use of the services of the State Public Defender; requiring repayment of certain advances to state agencies; and providing other matters properly relating thereto.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 500.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 908.

"SUMMARY—Creates the Task Force on K-12 Public Education Funding. (BDR S-1100)"

"AN ACT relating to education; creating the Task Force on K-12 Public Education Funding to recommend a plan for funding public schools based upon a weighted formula that takes into account the individual educational needs and demographic characteristics of pupils; prescribing the membership and duties of the Task Force; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Nevada Plan for School Finance provides for the financial support of the school districts, charter schools and university schools for profoundly gifted pupils. The formula in the Nevada Plan is expressed as: State financial aid to school districts equals the difference between school district basic support guarantee and local available funds produced by mandatory taxes minus all the local funds attributable to pupils who reside in the county but attend a charter school or a university school for profoundly gifted pupils. (NRS 387.121) The basic support guarantee for each school district is computed by multiplying the basic support guarantee per pupil that is established by law for the school district for each school year by pupil enrollment and adding funding for special education program units. (NRS 387.1221-387.1233; *see, e.g.*, chapter 370, Statutes of Nevada 2011, p. 2139) This bill creates the Task Force on K-12 Public Education Funding to recommend a plan for implementing a funding formula that takes into account the needs of, and the costs to educate, pupils based upon the individual educational needs and demographic characteristics of pupils, including, without limitation, pupils from low-income families, pupils with disabilities and pupils who have limited proficiency in the English language.

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

Section 1. The Nevada Legislature hereby finds and declares that:

1. It is the intended goal of the Legislature to equitably fund public education in this State and ensure that the public education funding formula properly accounts for the needs of, and the costs to educate, pupils based upon the individual educational needs and demographic characteristics of pupils, including, without limitation, pupils from low-income families, pupils with disabilities and pupils who have limited proficiency in the English language.

2. The Legislature seeks to revise the formula used to fund public education in Nevada to account for pupils with varying educational needs and demographic characteristics in each school district in this State.

Sec. 2. 1. The Task Force on K-12 Public Education Funding is hereby created. The Task Force consists of:

(a) The Superintendent of Public Instruction or his or her designee;

(b) The ~~President of~~ Director of the State Public Charter School Authority or his or her designee;

(c) One member appointed by the Nevada Association of School Superintendents ~~for his or her designee;~~

~~(c) The President of~~ in consultation with the Nevada Association of School Administrators;

(d) One member appointed by the Nevada Association of School Boards
~~for his or her designee;~~

~~(d) The President of the Nevada Association of School Administrators or his or her designee;~~

~~(e) A teacher in a public school in this State, appointed by the Majority Leader of the Senate from a list of names submitted by the~~ ;

(e) One member appointed by the Nevada Parent Teacher Association;

~~(f) [A parent of a pupil enrolled in a public school in this State, appointed by the Speaker of the Assembly from a list of names submitted by]~~ One member appointed by the Nevada State Education Association;

~~(g) [Three] Two members appointed by the Governor, [who must be current or former licensed educational personnel], one of whom is a financial officer of a county school district and one of whom is a parent or legal guardian of a pupil enrolled in a public school in this State;~~

(h) One member appointed by the Advisory Council on Parental Involvement and Family Engagement;

(i) Two members appointed by the Majority Leader of the Senate as follows:

(1) One Senator; and

(2) One person who is a current or former licensed ~~teacher or administrator; and~~

~~(+) educator;~~

(j) Two members appointed by the Speaker of the Assembly as follows:

(1) One Assemblyman or Assemblywoman; and

(2) One person who is a current or former licensed ~~teacher or administrator;~~ educator;

(k) One member of the Senate appointed by the Minority Leader of the Senate; and

(l) One member of the Assembly appointed by the Minority Leader of the Assembly.

2. In appointing members of the Task Force pursuant to subsection 1, the appointing authorities shall coordinate the appointments, to the extent practicable, so that the members of the Task Force represent the geographic and ethnic diversity of this State.

3. Any vacancy occurring in the appointed membership of the Task Force must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

~~3.]~~ 4. The Task Force shall hold its first meeting as soon as practicable on or after July 1, 2013, upon the call of the Governor. At the first meeting of the Task Force, the members of the Task Force shall elect a Chair, who must be either a Senator or an Assemblyman or Assemblywoman.

~~{4}~~ 5. Including the first meeting held pursuant to subsection ~~{3}~~ 4, the Task Force shall meet not more than six times each year at the call of the Chair.

~~{5}~~ 6. A majority of the members of the Task Force constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Task Force.

~~{6}~~ 7. The Chair of the Task Force may appoint such subcommittees ~~for~~ from within or outside the membership of the Task Force as the Chair determines necessary to carry out the duties of the Task Force.

~~{7}~~ 8. The Chair of the Task Force shall appoint a technical advisory committee consisting of persons who have knowledge, experience or expertise in K-12 public school finance as follows:

- (a) One representative of the Clark County School District;
- (b) One representative of the Washoe County School District;
- (c) One representative of a county school district other than the Clark County School District or the Washoe County School District; and
- (d) Any other persons who have knowledge, experience or expertise in the area of K-12 public school finance.

9. The members of the Task Force , a subcommittee of the Task Force and the technical advisory committee serve without compensation.

~~{8}~~ 10. The Director of the Legislative Counsel Bureau shall provide administrative support to the Task Force.

Sec. 3. 1. The Task Force on K-12 Public Education Funding created by section 2 of this act shall:

(a) Conduct a review of the report entitled "Study of a New Method of Funding for Public Schools in Nevada" published by the American Institutes for Research on September 25, 2012;

(b) Survey the weighted pupil public education funding formulas which are used in other states;

(c) Develop a plan for revising and implementing Nevada's public education funding formula in a manner which equitably accounts for the needs of, and the costs to educate, pupils based upon the individual educational needs and demographic characteristics of pupils, including, without limitation, pupils from low-income families, pupils with disabilities and pupils who have limited proficiency in the English language through a weighted funding formula; and

(d) Not later than June 30, 2014, prepare a written report to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the 78th Session of the Nevada Legislature which includes recommendations for implementing the plan developed pursuant to paragraph (c) for Nevada's public education funding formula in the executive budget prepared for the 2015-2017 biennium.

2. The Task Force , ~~for~~ a subcommittee of the Task Force or the technical advisory committee of the Task Force may seek the input, advice

and assistance of persons and organizations with the knowledge, interest or expertise relevant to the duties of the Task Force.

Sec. 4. As soon as practicable after the effective date of this act but not later than July 1, 2013, the members of the Task Force on K-12 Public Education Funding must be appointed as prescribed by section 2 of this act.

Sec. 5. This act:

1. Becomes effective upon passage and approval for the purpose of appointing members to the Task Force on K-12 Public Education Funding created by section 2 of this act and on July 1, 2013, for all other purposes.

2. Expires by limitation on June 30, 2015.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 908 to Senate Bill No. 500 specifies the make-up of this committee to more adequately reflect the various stakeholders that will be involved. It also changes the appointing authority to ensure there is minority representation on a committee. It mandates the creation of a task force that will be a technical advisory body, and it includes various individuals from existing school districts to serve on that task force.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 151.

Bill read second time and ordered to third reading.

Assembly Bill No. 153.

Bill read second time.

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

Amendment No. 934.

"SUMMARY—Provides for the licensing and operation of craft distilleries in Nevada. (BDR 52-607)"

"AN ACT relating to alcoholic beverages; providing for the licensing and operation of craft distilleries in this State; setting forth the conditions under which spirits manufactured at such craft distilleries may be sold; removing the limitation on the number of barrels of malt beverages that an operator of one or more brew pubs may manufacture in any calendar year; requiring certain notice to be provided for bulk sales of liquor; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the operation of brew pubs and instructional wine-making facilities. (NRS 597.230, 597.245) Under existing law, facilities such as brew pubs and instructional wine-making facilities must be licensed, a fee is imposed for the license, and a person who engages in business in this State without having the appropriate permit or license for the business is guilty of a misdemeanor. (NRS 360.490, 369.180, 369.300) Sections 1, ~~2-4~~ and ~~6-8~~ 6-8 of this bill: (1) authorize the operation of craft distilleries in Nevada; (2) set forth the permissible scope of operation for

those craft distilleries; (3) require that the craft distilleries be licensed; and (4) impose a licensing fee of \$75.

Existing law prohibits a supplier of malt beverages, distilled spirits and wines from unilaterally terminating or refusing to continue a franchise with a wholesaler or causing a wholesaler to resign from a franchise without first establishing good cause. (NRS 597.160) Section 1.5 of this bill revises an exception to that provision so that suppliers who sell less than 2,000 rather than 2,500 barrels of malt beverage in any calendar year are excluded from that requirement.

Existing law prohibits a person who operates one or more brew pubs in a county whose population is 700,000 or more (currently Clark County) from manufacturing more than 15,000 barrels of malt beverages for all the brew pubs the person operates in that county in any calendar year. Additionally, a person who operates one or more brew pubs in a county whose population is less than 700,000 (currently all counties other than Clark County) is prohibited from manufacturing more than 5,000 barrels of malt beverages for all the brew pubs the person operates in that county in any calendar year. (NRS 597.230) Section 4.5 of this bill provides that a person who operates one or more brew pubs in any county is prohibited from manufacturing more than 15,000 barrels of malt beverages for all the brew pubs the person operates in any calendar year.

Section 5.5 of this bill requires a retailer of intoxicating liquors to provide certain advance notice to certain wholesalers of a bulk sale or transfer of liquor which is not in the ordinary course of the retailer's business.

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A person may operate a craft distillery if the person:*

- (a) *Obtains a license for the facility pursuant to chapter 369 of NRS;*
- (b) *Complies with the requirements of this ~~section;~~ chapter; and*
- (c) *Complies with any other applicable governmental requirements.*

2. *A person who operates a craft distillery pursuant to this section may:*

(a) *In addition to manufacturing spirits from agricultural raw materials through distillation, blend, age, store and bottle the spirits so manufactured. The person operating the craft distillery shall ensure that none of the spirits manufactured at the craft distillery are derived from neutral or distilled spirits manufactured by another manufacturer.*

(b) *In any calendar year, ~~manufacture for sale~~ sell and transport in Nevada not more than a combined total of 10,000 cases of spirits at all the craft distilleries the person operates ~~to~~ to a person who holds a license to engage in business as a wholesale dealer of liquor pursuant to chapter 369 of NRS.*

(c) In any calendar year, manufacture for exportation to another state, not more than a combined total of 20,000 cases of spirits at all the craft distilleries the person operates.

(d) On the premises of the craft distillery, serve samples of the spirits manufactured at the craft distillery. Any such samples must not exceed, per person, per day, 2 fluid ounces in volume.

(e) On the premises of the craft distillery, sell the spirits manufactured at the craft distillery at retail for consumption on or off the premises. Any such spirits sold at retail for off-premises consumption must not exceed, per person, per month, ~~one half of a case~~ 2 bottles of spirits. Spirits purchased on the premises of a craft distillery must not be resold by the purchaser or any retail liquor store.

3. As used in this section ~~f, "case"~~ :

(a) "Bottle of spirits" means a bottle containing 750 milliliters of distilled spirits.

(b) "Case of spirits" means 12 bottles ~~f, each containing 750 milliliters~~ of ~~distilled~~ spirits.

Sec. 1.5. NRS 597.160 is hereby amended to read as follows:

597.160 1. Except as otherwise provided in subsection 4, if more than one franchise for the same brand or brands of malt beverages, distilled spirits and wines, or all of them, is granted to different wholesalers in this state, it is a violation of NRS 597.120 to 597.180, inclusive, for any supplier to discriminate between such wholesalers with respect to any of the terms, provisions and conditions of these franchises.

2. Except as otherwise provided in this subsection and notwithstanding the terms, provisions or conditions of any franchise, a supplier shall not unilaterally terminate or refuse to continue any franchise with a wholesaler or cause a wholesaler to resign from that franchise unless the supplier has first established good cause for that termination, noncontinuance or causing of that resignation. This subsection does not apply to a supplier who sells less than ~~{2,500}~~ 2,000 barrels of malt beverages, less than 250 cases of distilled spirits or less than 2,000 cases of wine in this state in any calendar year, or who operates a winery pursuant to NRS 597.240.

3. A wholesaler may, within 60 days after he or she receives a notice required pursuant to NRS 597.155, correct any failure to comply with the terms, provisions and conditions of the franchise alleged by the supplier.

4. Unless otherwise specified by contract between the supplier and wholesaler, a supplier shall not grant more than one franchise to a wholesaler for any brand of alcoholic beverage in a marketing area.

Sec. 2. NRS 597.200 is hereby amended to read as follows:

597.200 As used in NRS 597.190 to 597.250, inclusive, *and section 1 of this act*, unless the context otherwise requires:

1. "Alcoholic beverage" means any malt beverage or spirituous, vinous or malt liquor which contains 1 percent or more ethyl alcohol by volume.

2. "Brew pub" means an establishment which manufactures malt beverages and sells those malt beverages at retail pursuant to the provisions of NRS 597.230.

3. "Craft distillery" means an establishment which:

(a) Manufactures distilled spirits from agricultural raw materials through distillation; and

(b) Is authorized to sell ~~and distribute~~ those distilled spirits pursuant to the provisions of ~~section 1 of this act~~ this chapter.

4. "Distillation" means the process of producing or purifying spirituous liquor by successive evaporation and condensation.

5. "Engage in" includes participation in a business as an owner or partner, or through a subsidiary, affiliate, ownership equity or in any other manner.

~~{4-}~~ 6. "Instructional wine-making facility" means an instructional wine-making facility operated pursuant to NRS 597.245.

~~{5-}~~ 7. "Legal age" means the age at which a person is legally permitted to purchase an alcoholic beverage pursuant to NRS 202.020.

~~{6-}~~ 8. "Malt beverage" means beer, ale, porter, stout and other similar fermented beverages of any name or description, brewed or produced from malt, wholly or in part.

~~{7-}~~ 9. "Supplier" has the meaning ascribed to it in NRS 597.140.

~~{8-}~~ 10. "Wine" has the meaning ascribed to it in NRS 369.140.

Sec. 3. NRS 597.210 is hereby amended to read as follows:

597.210 1. Except as otherwise provided in *subsection 2 and* NRS 597.240, a person engaged in business as a supplier or engaged in the business of manufacturing, blending or bottling alcoholic beverages within or without this State shall not ~~engage~~ :

(a) Engage in the business of importing, wholesaling or retailing alcoholic beverages ~~{-}~~ ; or

(b) Operate or otherwise locate his or her business on the premises or property of another person engaged in the business of importing, wholesaling or retailing alcoholic beverages.

2. This section does not:

(a) Preclude any person engaged in the business of importing, wholesaling or retailing alcoholic beverages from owning less than 2 percent of the outstanding ownership equity in any organization which manufactures, blends or bottles alcoholic beverages.

(b) Prohibit a person engaged in the business of rectifying or bottling alcoholic beverages from importing neutral or distilled spirits in bulk only for the express purpose of rectification pursuant to NRS 369.415.

(c) Prohibit a person from operating a brew pub pursuant to NRS 597.230.

(d) Prohibit a person from operating an instructional wine-making facility pursuant to NRS 597.245.

(e) Prohibit a person from operating a craft distillery pursuant to *section 1 of this act*.

Sec. 4. NRS 597.220 is hereby amended to read as follows:

597.220 1. ~~{Any}~~ *Except as otherwise provided in ~~subsection 3,~~ section 1 of this act,* a person who is engaged in the business of importing or wholesaling alcoholic beverages in the State of Nevada shall not engage in the business of retailing alcoholic beverages in this state.

2. For the purposes of this section, a person who transfers or receives alcoholic beverages in the manner described in NRS 369.4865 must not be considered to be engaged in the business of wholesaling alcoholic beverages based solely upon those transfers.

~~f 3. This section does not prohibit a person from operating a craft distillery pursuant to section 1 of this act.~~

Sec. 4.5. NRS 597.230 is hereby amended to read as follows:

597.230 1. In ~~{a county whose population is 700,000 or more,}~~ *any county,* a person may operate a brew pub:

(a) In any redevelopment area established in that county pursuant to NRS 279.382 to 279.685, inclusive;

(b) In any historic district established in that county pursuant to NRS 384.005;

(c) In any retail liquor store as that term is defined in NRS 369.090; or

(d) In any other area in the county designated by the board of county commissioners for the operation of brew pubs. In a city which is located in that county, a person may operate a brew pub in any area in the city designated by the governing body of that city for the operation of brew pubs.

↪ A person who operates one or more brew pubs may not manufacture more than 15,000 barrels of malt beverages for all the brew pubs he or she operates in that county in any calendar year.

2. ~~{In a county whose population is less than 700,000, a person may operate a brew pub:~~

~~(a) In any redevelopment area established in that county pursuant to NRS 279.382 to 279.685, inclusive;~~

~~(b) In any historic district established in that county pursuant to NRS 384.005;~~

~~(c) In any retail liquor store as that term is defined in NRS 369.090; or~~

~~(d) In any other area in the county designated by the board of county commissioners for the operation of brew pubs. In a city which is located in that county, a person may operate a brew pub in any area in the city designated by the governing body of that city for the operation of brew pubs.~~

~~↪ A person who operates one or more brew pubs may not manufacture more than 5,000 barrels of malt beverages for all brew pubs he or she operates in that county in any calendar year.~~

~~3. The premises of any brew pub operated pursuant to this section must be conspicuously identified as a "brew pub."~~

~~4. 3.~~ A person who operates a brew pub pursuant to this section may, upon obtaining a license pursuant to chapter 369 of NRS and complying with any other applicable governmental requirements:

(a) Manufacture and store malt beverages on the premises of the brew pub and:

(1) Sell and transport the malt beverages manufactured on the premises to a person holding a valid wholesale wine and liquor dealer's license or wholesale beer dealer's license issued pursuant to chapter 369 of NRS.

(2) Donate for charitable or nonprofit purposes and transport the malt beverages manufactured on the premises in accordance with the terms and conditions of a special permit for the transportation of the malt beverages obtained from the Department of Taxation pursuant to subsection 4 of NRS 369.450.

(b) Sell at retail malt beverages manufactured on or off the premises of the brew pub for consumption on the premises.

(c) Sell at retail in packages sealed on the premises of the brew pub, malt beverages, including malt beverages in unpasteurized form, manufactured on the premises for consumption off the premises.

Sec. 5. NRS 597.250 is hereby amended to read as follows:

597.250 The license of any person who violates the provisions of NRS 597.210, 597.220, 597.230 or 597.245 or *section 1 of this act* must be suspended or revoked in the manner provided in chapter 369 of NRS.

Sec. 5.5. Chapter 369 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A retailer who intends to make a bulk sale of liquor shall, at least 30 days before the proposed bulk sale, provide notice to:

(a) A wholesaler who currently sells liquor to the retailer; and

(b) A wholesaler who has sold liquor to the retailer within the immediately preceding 12 months.

2. The notice provided pursuant to subsection 1 must state:

(a) That a sale of liquor which may constitute a bulk sale will be made;

(b) The prospective date of the bulk sale;

(c) The individual, partnership or corporate names and addresses of the retailer and the purchaser of the bulk sale; and

(d) The address to which inquiries about the bulk sale may be made, if different from the retailer's address.

3. If the retailer owes a debt to the wholesaler associated with the purchase of the liquor that will be sold or transferred through the bulk sale, the notice provided pursuant to subsection 1 must be accompanied by:

(a) A signed affidavit of the retailer which states that the debt owed to the wholesaler will be paid by the retailer to the wholesaler from the proceeds of the bulk sale; or

(b) A signed assumption of the debt by the purchaser of the bulk sale, assuming all the debt owed by the retailer to the wholesaler.

4. Any bulk sale subject to the provisions of this section is void if the retailer fails to satisfy the requirements of subsection 2 or 3, as applicable.

5. As used in this section, "bulk sale" means the sale or transfer to a purchaser in bulk, and not in the ordinary course of the retailer's business.

of 50 percent or more of the liquor sold by a wholesaler to the retailer and in the retailer's possession.

Sec. 6. NRS 369.180 is hereby amended to read as follows:

369.180 1. In addition to the limitations imposed by NRS 597.210 and 597.220, a person shall not:

(a) Import liquors into this State unless the person first secures an importer's license or permit from this State.

(b) Engage in business as a wholesale dealer of wines and liquors in this State unless the person first secures a wholesale wine and liquor dealer's license from this State.

(c) Engage in business as a wholesale dealer of beer in this State unless the person first secures a wholesale beer dealer's license from this State.

(d) Operate a winery in this State or export wine from this State unless the person first secures a wine-maker's license from this State.

(e) Operate an instructional wine-making facility in this State unless the person first secures a license for the instructional wine-making facility from this State.

(f) Operate a brewery in this State unless the person first secures a brewer's license from this State.

(g) Operate a brew pub in this State unless the person first secures a brew pub's license from this State.

(h) *Operate a craft distillery in this State unless the person first secures a craft distiller's license from this State.*

2. A person who holds a license for an instructional wine-making facility:

(a) May engage in any activity authorized by NRS 597.245.

(b) May not engage in any other activity for which a license is required pursuant to this chapter, unless the person holds the appropriate license for that activity.

3. *A person who holds a license for a craft distillery:*

(a) May engage in any activity authorized by section 1 of this act.

(b) May not engage in any other activity for which a license is required pursuant to this chapter, unless the person holds the appropriate license for that activity.

4. As used in this section:

(a) "Brew pub" has the meaning ascribed to it in NRS 597.200.

(b) "Brewery" means an establishment which manufactures malt beverages but does not sell those malt beverages at retail.

(c) "Craft distillery" has the meaning ascribed to it in NRS 597.200.

(d) "Malt beverage" has the meaning ascribed to it in NRS 597.200.

Sec. 7. NRS 369.300 is hereby amended to read as follows:

369.300 The following is a schedule of fees to be charged for licenses:

Importer's wine, beer and liquor license	\$500
Importer's beer license	150
Wholesale wine, beer and liquor license	250

Wholesale beer dealer’s license 75
Wine-maker’s license 75
License for an instructional wine-making facility 75
Brew pub’s license 75
Brewer’s license 75
Craft distiller’s license 75

Sec. 8. NRS 369.382 is hereby amended to read as follows:

369.382 ~~1.1~~ Except as otherwise provided in ~~subsection 2.1~~
NRS 369.386 ~~and~~ 369.415 ~~1.1~~ and section 1 of this act, a supplier shall not
engage in the business of importing, wholesaling or retailing alcoholic
beverages in this State.

~~2. This section does not prohibit a person from operating a craft distillery
pursuant to section 1 of this act.~~

Sec. 9. 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. 934 to Assembly Bill No. 153 clarifies the
three-tiered system for distributing intoxicating liquors with regard to the operation of craft
distilleries. It provides that a person may purchase not more than two bottles of spirits per month
from a craft distillery. It also provides that a person who operates one or more brew pubs in any
county is prohibited from manufacturing more than 15,000 barrels of malt beverages for all the
brew pubs the person operates in a calendar year. Finally, the bill requires an intoxicating liquor
retailer to provide certain advance notice to wholesalers of a bulk sale or transfer of liquor,
which is not in the ordinary course of the retailer’s business.

Amendment adopted.

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

Assembly Bill No. 213.

Bill read second time and ordered to third reading.

Assembly Bill No. 309.

Bill read second time and ordered to third reading.

Assembly Bill No. 435.

Bill read second time.

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

Amendment No. 927.

"SUMMARY—Revises provisions governing insurance. (BDR 57-1171)"

"AN ACT relating to insurance; revising the manner in which an
assessment imposed on insurers in this State is calculated; revising
requirements concerning reinsurance; exempting certain domestic insurers
and prepaid limited health service organizations from a requirement to
submit certain information to the Commissioner of Insurance; revising
provisions governing the Nevada Life and Health Insurance Guaranty
Association, the Interstate Insurance Product Regulation Compact, insurance
holding companies and requirements that certain groups submit information

to the Commissioner; authorizing the Commissioner to approve a person who is not an insurer, a reinsurer or a captive insurer as a sponsor of a captive insurer; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the regulation of the business of insurance in this State, including, without limitation, kinds of insurance, assets and liabilities of insurers, holding companies, captive insurers and liability risk retention. (Chapters 681A, 681B, 686C, 687C, 692C, 694C, 695E of NRS) This bill makes various changes to those provisions.

Existing law requires insurers authorized to transact business in this State to pay an assessment to fund a program to investigate unfair or fraudulent insurance practices. (NRS 679B.630, 679B.700) Section 1 of this bill revises the way in which this assessment is calculated.

Sections 2-5 of this bill revise the requirements certain insurers must meet in order to be allowed credit when assuming reinsurance. Section 6 of this bill authorizes the Commissioner of Insurance to exempt certain domestic insurers and prepaid limited health service organizations from the requirement to prepare and submit to the Commissioner a report of the level of risk-based capital of the insurer at the end of the immediately preceding calendar year.

Existing law requires all insurers who provide life and health insurance in this State to maintain membership in the Nevada Life and Health Insurance Guaranty Association and requires the Association to cover the policies and contracts of an insolvent insurer. (NRS 686C.130, 686C.152) Section 7 of this bill provides that the Association is not required to cover certain policies and contracts for health care benefits pursuant to Medicare. Section 8 of this bill revises the amounts of certain benefits the Association is required to cover.

Under existing law, this State prospectively opts out of all uniform standards adopted by the Interstate Insurance Product Regulation Commission involving long-term care insurance products. (NRS 687C.030) Section 9 of this bill deletes the prospective opt-out of this State. Section 12 of this bill enacts certain requirements concerning the corporate governance of a domestic insurer.

Section 13 of this bill authorizes the Commissioner to convene a supervisory college, which is a forum for communication and cooperation between regulators, to ascertain the financial condition or legality of the conduct of certain insurers. Sections 15 and 16 of this bill revise provisions relating to the investments of a domestic insurer. Sections 17-21 of this bill revise provisions governing the acquisition of an insurer. Sections 22 and 23 of this bill require an insurer to submit certain information to the Commissioner concerning the insurer's general financial condition and corporate governance. Sections 24 and 25 of this bill revise provisions governing transactions by registered insurers with their affiliates.

Section 27 of this bill revises the method used to determine whether a dividend or distribution may be paid without requesting approval from the Commissioner. Section 28 of this bill revises provisions governing the authority of the Commissioner to examine an insurer. Sections 28.5 and 28.6 of this bill authorize the Commissioner to approve a person who is not an insurer, a reinsurer or a captive insurer as a sponsor of a captive insurer. Section 29 of this bill changes the date by which certain insurers are required to submit to the Commissioner a report of the financial condition of the insurer. Sections 30-34 of this bill revise information which certain groups that conduct business concerning insurance are required to submit to the Commissioner.

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

Section 1. NRS 679B.700 is hereby amended to read as follows:

679B.700 1. The Special Investigative Account is hereby established in the Fund for Insurance Administration and Enforcement created by NRS 680C.100 for use by the Commissioner. The Commissioner shall deposit all money received pursuant to this section with the State Treasurer for credit to the Account. Money remaining in the Account at the end of a fiscal year does not lapse to the State General Fund and may be used by the Commissioner in any subsequent fiscal year for the purposes of this section.

2. The Commissioner shall:

(a) In cooperation with the Attorney General, biennially prepare and submit to the Governor, for inclusion in the executive budget, a proposed budget for the program established pursuant to NRS 679B.630; and

(b) Authorize expenditures from the Special Investigative Account to pay the expenses of the program established pursuant to NRS 679B.630 and of any unit established in the Office of the Attorney General that investigates and prosecutes insurance fraud.

3. The money authorized for expenditure pursuant to paragraph (b) of subsection 2 must be distributed in the following manner:

(a) Fifteen percent of the money authorized for expenditure must be paid to the Commissioner to oversee and enforce the program established pursuant to NRS 679B.630; and

(b) Eighty-five percent of the money authorized for expenditure must be paid to the Attorney General to pay the expenses of the unit established in the Office of the Attorney General that investigates and prosecutes insurance fraud.

4. Except as otherwise provided in ~~{subsections} subsection 5 , {and 6,}~~ costs of the program established pursuant to NRS 679B.630 must be paid by the insurers authorized to transact insurance in this State. The Commissioner shall ~~{annually determine the total cost of the program and divide that amount among the insurers pro rata based upon the total amount of premiums charged to the insureds in this State by the insurer.}~~

~~5. The annual amount so assessed on each reinsurer that has the authority to assume only reinsurance must not exceed \$500. For all other insurers subject to the annual assessment, the~~ collect an annual assessment from each insurer authorized to transact insurance in this State. The annual amount so assessed to each insurer:

(a) ~~Must not exceed~~ Is \$500, if the total amount of the premiums charged to insureds in this State by the insurer is less than \$100,000 ~~[-]~~ or if the insurer is a reinsurer that has the authority to assume only reinsurance;

(b) ~~Must not exceed~~ Is \$750, if the total amount of the premiums charged to insureds in this State by the insurer is \$100,000 or more, but less than \$1,000,000;

(c) ~~Must not exceed~~ Is \$1,000, if the total amount of the premiums charged to insureds in this State by the insurer is \$1,000,000 or more, but less than \$10,000,000;

(d) ~~Must not exceed~~ Is \$1,500, if the total amount of the premiums charged to insureds in this State by the insurer is \$10,000,000 or more, but less than \$50,000,000; and

(e) ~~Must not exceed~~ Is \$2,000, if the total amount of the premiums charged to insureds in this State by the insurer is \$50,000,000 or more.

~~6.~~ 5. The provisions of this section do not apply to an insurer who provides only workers' compensation insurance and pays the assessment provided in NRS 232.680.

~~7.~~ 6. The Commissioner shall adopt regulations to carry out the provisions of this section, including, without limitation, the ~~calculation and~~ collection of the assessment.

~~8.~~ 7. As used in this section, "reinsurer" has the meaning ascribed to it in NRS 681A.370.

Sec. 2. NRS 681A.140 is hereby amended to read as follows:

681A.140 As used in NRS 681A.140 to 681A.240, inclusive, "qualified financial institution in the United States" means an institution that:

1. Is organized, or in the case of a branch or agency of a foreign banking organization in the United States licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; ~~and~~

2. Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies ~~[-]~~;

3. Is determined:

(a) By the Commissioner to meet the standards of financial condition and standing prescribed by the Commissioner; or

(b) By the National Association of Insurance Commissioners to meet the standards of financial condition and standing prescribed by the National Association of Insurance Commissioners; and

4. Is determined by the Commissioner to be otherwise acceptable.

Sec. 3. NRS 681A.160 is hereby amended to read as follows:

681A.160 1. Except as otherwise provided in subsection 2, credit must be allowed if reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this state. An accredited reinsurer is one which:

- (a) Files with the Commissioner an executed form approved by the Commissioner as evidence of its submission to this state's jurisdiction;
- (b) Submits to this state's authority to examine its books and records;
- (c) Files with the Commissioner a certified copy of a certificate of authority or other evidence approved by the Commissioner indicating that it is licensed to transact insurance or reinsurance in at least one state, or in the case of a branch in the United States of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state;
- (d) Files annually with the Commissioner a copy of its annual statement filed with the Division of its state of domicile or entry and a copy of its most recent audited financial statement;

(e) Maintains a surplus as regards policyholders in an amount which is ~~not~~:

- (1) *Not less than \$20,000,000 and whose accreditation ~~is~~*
~~(1) Has~~ *has not been denied by the Commissioner within 90 days after its submission; or*
- (2) ~~Has~~ *Less than \$20,000,000 and whose accreditation has been approved by the Commissioner; and*
- (f) Pays all applicable fees, including, without limitation, all applicable fees required pursuant to NRS 680C.110.

2. No credit may be allowed for a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the Commissioner after notice and a hearing.

Sec. 4. NRS 681A.180 is hereby amended to read as follows:

681A.180 1. Except as otherwise provided in subsection 4, credit must be allowed if reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified financial institution in the United States for the payment of the valid claims of its policyholders and ceding insurers in the United States, their assigns and successors in interest. The assuming insurer shall ~~report~~:

- (a) *Report* annually to the Commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners' form of annual statement by licensed insurers to enable the Commissioner to determine the sufficiency of the trust fund ~~is~~; *and*
- (b) *Submit to the authority of the Commissioner to examine its books and records.*

2. In the case of a single assuming insurer, the trust must consist of an account in trust equal to the assuming insurer's liabilities attributable to business written in the United States and the assuming insurer shall maintain a surplus in trust of not less than \$20,000,000.

3. In the case of a group of incorporated and individual unincorporated underwriters ~~is~~:

(a) *The trust must consist of an account in trust equal to the group's liabilities attributable to business written in the United States . ~~and the~~*

(b) *The group shall ~~maintain~~ :*

(1) *Maintain a surplus in trust of which \$100,000,000 must be held jointly for the benefit of ceding insurers in the United States to any member of the group ; ~~;~~ and ~~the group shall make~~*

(2) *Make available to the Commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants.*

(c) *The incorporated members of the group:*

(1) *Shall not engage in any business other than underwriting as a member of the group; and*

(2) *Must be subject to the same level of regulation and solvency control by the applicable regulatory agency of the state in which the group is domiciled as the individual unincorporated members of the group.*

4. If the assuming insurer does not meet the requirements of NRS 681A.110, 681A.160 or 681A.170, credit must not be allowed unless the assuming insurer has agreed to the following conditions set forth in the trust agreement:

(a) Notwithstanding any provision to the contrary in the trust instrument, if the trust fund consists of an amount that is less than the amount required pursuant to this section, or if the grantor of the trust fund is declared to be insolvent or placed into receivership, rehabilitation, liquidation or a similar proceeding in accordance with the laws of the grantor's state or country of domicile, the trustee of the trust fund must comply with an order of the commissioner of insurance or other appropriate person with regulatory authority over the trust fund in that state or country or a court of competent jurisdiction requiring the trustee to transfer to that commissioner or person all the assets of the trust fund;

(b) The assets of the trust fund must be distributed by and claims filed with and valued by the commissioner of insurance or other appropriate person with regulatory authority over the trust fund in accordance with the laws of the state in which the trust fund is domiciled that are applicable to the liquidation of domestic insurers in that state;

(c) If the commissioner of insurance or other appropriate person with regulatory authority over the trust fund determines that the assets of the trust fund or any portion of the trust fund are not required to satisfy any claim of any ceding insurer of the grantor of the trust fund in the United States, the assets must be returned by that commissioner or person to the trustee of the trust fund for distribution in accordance with the trust agreement; and

(d) The grantor of the trust must waive any right that:

(1) Is otherwise available to the grantor under the laws of the United States; and

(2) Is inconsistent with the provisions of this subsection.

Sec. 5. NRS 681A.240 is hereby amended to read as follows:

681A.240 A reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of NRS 681A.110 or the regulations of the Commissioner concerning risk-based capital must be allowed in an amount not exceeding the liabilities carried by the ceding insurer and the reduction must be in the amount of assets held by or on behalf of the ceding insurer, including assets held in trust for the ceding insurer, under a contract of reinsurance with the assuming insurer as security for the payment of obligations thereunder, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, or, in the case of a trust, held in a qualified financial institution in the United States. The security may be in any of the following forms:

1. Cash.
2. Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets.
3. Irrevocable, unconditional letters of credit, each issued or confirmed by a qualified financial institution in the United States ~~[which has been determined by the Commissioner, or the Securities Valuation Office of the National Association of Insurance Commissioners, to meet such standards of financial condition and standing as are considered necessary or appropriate to regulate the quality of financial institutions]~~ whose letters of credit are acceptable to the Commissioner, no later than December 31 of the year for which filing is made, and in the possession of the ceding company on or before the date of filing its annual statement. A letter of credit meeting applicable standards of acceptability of its issuer as of the date of its issuance or confirmation, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of acceptability, continues to be acceptable as security until its expiration, extension, renewal, modification or amendment, whichever first occurs.

4. Any other form of security acceptable to the Commissioner.

Sec. 6. NRS 681B.290 is hereby amended to read as follows:

681B.290 1. Except as otherwise provided in subsection 3, on or before March 1 of each year, each domestic insurer, and each foreign insurer domiciled in a state which does not have requirements for reporting risk-based capital, that transacts property, casualty, life or health insurance in this state shall prepare and submit to the Commissioner, and to each person designated by the Commissioner, a report of the level of the risk-based capital of the insurer as of the end of the immediately preceding calendar year. The report must be in such form and contain such information as required by the regulations adopted by the Commissioner pursuant to this section.

2. The Commissioner shall adopt regulations concerning the amount of risk-based capital required to be maintained by each insurer licensed to do business in this state that is transacting property, casualty, life or health insurance in this state. The regulations must be consistent with the

instructions for reporting risk-based capital adopted by the National Association of Insurance Commissioners, as those instructions existed on January 1, 1997. If the instructions are amended, the Commissioner may amend the regulations to maintain consistency with the instructions if the Commissioner determines that the amended instructions are appropriate for use in this state.

3. The Commissioner may exempt from the provisions of this section ~~the~~:

(a) A domestic insurer who:

~~(a)~~ (1) Does not transact insurance in any other state; ~~and~~

~~(b)~~ (2) Does not assume reinsurance that is more than 5 percent of the direct premiums written by the insurer ~~;~~; and

(3) Writes annual premiums of not more than \$2,000,000.

(b) A prepaid limited health service organization that provides or arranges for the provision of limited health services to fewer than 1,000 enrollees.

4. As used in this section, "prepaid limited health service organization" has the meaning ascribed to it in NRS 695F.050.

Sec. 7. NRS 686C.035 is hereby amended to read as follows:

686C.035 1. This chapter does not provide coverage for:

(a) A portion of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the owner of the policy or contract.

(b) A policy or contract of reinsurance unless assumption certificates have been issued pursuant to that policy or contract.

(c) A portion of a policy or contract to the extent that the rate of interest on which it is based, or the interest rate, crediting rate or similar factor determined by the use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:

(1) Averaged over the period of 4 years before the date on which the association becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting 2 percentage points from Moody's Corporate Bond Yield Average averaged for the same period, or for the period between the date of issuance of the policy or contract and the date the association became obligated, whichever period is less; and

(2) On or after the date on which the association becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting 3 percentage points from Moody's Corporate Bond Yield Average as most recently available.

(d) A portion of a policy or contract issued to a plan or program of an employer, association or other person to provide life, health or annuity benefits to its employees, members or other persons to the extent that the plan or program is self-funded or uninsured, including, but not limited to, benefits payable by an employer, association or other person under:

(1) A multiple employer welfare arrangement described in 29 U.S.C. § ~~1144;~~ 1002(40);

(2) A minimum-premium group insurance plan;

(3) A stop-loss group insurance plan; or

(4) A contract for administrative services only.

(e) A portion of a policy or contract to the extent that it provides for dividends, credits for experience, voting rights or the payment of any fee or allowance to any person, including the owner of a policy or contract, for services or administration connected with the policy or contract.

(f) A policy or contract issued in this state by a member insurer at a time when the member insurer was not authorized to issue the policy or contract in this state.

(g) A portion of a policy or contract to the extent that the assessments required by NRS 686C.230 with respect to the policy or contract are preempted by federal law.

(h) An obligation that does not arise under the express written terms of the policy or contract issued by the insurer, including:

(1) Claims based on marketing materials;

(2) Claims based on side letters or other documents that were issued by the insurer without satisfying applicable requirements for filing or approval of policy forms;

(3) Misrepresentations of or regarding policy benefits;

(4) Extra-contractual claims; or

(5) A claim for penalties or consequential or incidental damages.

(i) A contractual agreement that establishes the member insurer's obligation to provide a guarantee based on accounting at book value for participants in a defined-contribution benefit plan by reference to a portfolio of assets owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer.

(j) A portion of a policy or contract to the extent that it provides for interest or other changes in value which are determined by the use of an index or other external reference stated in the policy or contract, but which have not been credited to the policy or contract, or as to which the rights of the owner of the policy or contract are subject to forfeiture, determined on the date the member insurer becomes an impaired or insolvent insurer, whichever occurs first. If the interest or changes in value of a policy or contract are credited less frequently than annually, for the purpose of determining the values that have been credited and are not subject to forfeiture, the interest or change in value determined by using procedures stated in the policy or contract must be credited as if the contractual date for crediting interest or changing values was the date of the impairment or insolvency of the insured member, whichever occurs first and is not subject to forfeiture.

(k) An unallocated annuity contract other than an annuity owned by a governmental retirement plan established under section 401, 403(b) or 457 of the Internal Revenue Code, 26 U.S.C. §§ 401, 403(b) and 457, respectively, or the trustees of such a plan.

(l) A policy or contract providing any hospital, medical, prescription drug or other health care benefits pursuant to 42 U.S.C. §§ 1395w-21 et seq. and 1395w-101 et seq., and any regulations adopted pursuant thereto.

2. As used in this section, "Moody's Corporate Bond Yield Average" means the monthly average for corporate bonds published by Moody's Investors Service, Inc., or any successor average.

Sec. 8. NRS 686C.210 is hereby amended to read as follows:

686C.210 1. The benefits that the Association may become obligated to cover may not exceed the lesser of:

(a) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer;

(b) With respect to one life, regardless of the number of policies or contracts:

(1) Three hundred thousand dollars in death benefits from life insurance, but not more than \$100,000 in net cash for surrender and withdrawal for life insurance; or

(2) ~~One~~ *Two* hundred ~~thirty~~ *fifty* thousand dollars in the present value of benefits from annuities, including net cash for surrender and withdrawal;

(c) With respect to health insurance for any one ~~natural person~~ *life*:

(1) One hundred thousand dollars for coverages other than disability insurance, *long-term care insurance*, basic hospital, medical and surgical insurance or major medical insurance, including any net cash for surrender or withdrawal;

(2) Three hundred thousand dollars for disability *insurance or long-term care* insurance; or

(3) Five hundred thousand dollars for basic hospital, medical and surgical insurance or major medical insurance;

(d) With respect to each payee of a structured settlement annuity, or beneficiary or beneficiaries of the payee if deceased, ~~[\$100,000]~~ *\$250,000* in present value of benefits from the annuity in the aggregate, including any net cash for surrender or withdrawal; or

(e) With respect to each participant in a governmental retirement plan covered by an unallocated annuity contract which is owned by a governmental retirement plan established under section 401, 403(b) or 457 of the Internal Revenue Code, 26 U.S.C. §§ 401, 403(b) and 457, respectively, or the trustees of such a plan, and which is approved by the Commissioner, an aggregate of ~~[\$100,000]~~ *\$250,000 in present-value annuity benefits, including the value of net cash for surrender and net cash for withdrawal*, regardless of the number of contracts.

2. In no event is the Association obligated to cover more than:

(a) With respect to any one life or person under paragraphs (b) ~~and (c)~~ *to (e)*, inclusive, of subsection 1:

(1) An aggregate of \$300,000 in benefits, excluding benefits for basic hospital, medical and surgical insurance or major medical insurance; or

(2) An aggregate of \$500,000 in benefits, including benefits for basic hospital, medical and surgical insurance or major medical insurance.

(b) With respect to one owner of several nongroup policies of life insurance, whether the owner is a natural person or an organization and whether the persons insured are officers, managers, employees or other persons, more than \$5,000,000 in benefits, regardless of the number of policies and contracts held by the owner.

3. The limitations set forth in this section are limitations on the benefits for which the Association is obligated before taking into account its rights to subrogation or assignment or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The cost of the Association's obligations under this chapter may be met by the use of assets attributable to covered policies, or reimbursed to the Association pursuant to its rights to subrogation or assignment.

4. In performing its obligation to provide coverage under NRS 686C.150 and 686C.152, the Association need not guarantee, assume, reinsure or perform, or cause to be guaranteed, assumed, reinsured or performed, the contractual obligations of the impaired or insolvent insurer under a covered policy or contract which do not materially affect the economic value or economic benefits of the covered policy or contract.

Sec. 9. NRS 687C.030 is hereby amended to read as follows:

687C.030 1. It is the policy of this State to opt out of and the Commissioner of Insurance shall by regulation opt out of any uniform standard adopted by the Interstate Insurance Product Regulation Commission which provides less protection than a law of this State or otherwise diminishes the rights of policyholders and persons applying for a policy of insurance in this State.

2. Upon determining, or upon becoming aware of a finding of a court of competent jurisdiction which found, that this State must opt out of a uniform standard pursuant to subsection 1, the Commissioner shall provide to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature notice of such determination or finding.

~~{3.—This State prospectively opts out of all uniform standards adopted by the Interstate Insurance Product Regulation Commission involving long term care insurance products.}~~

Sec. 10. Chapter 692C of NRS is hereby amended by adding thereto the provisions set forth as sections 11, 12 and 13 of this act.

Sec. 11. *"Enterprise risk" means any activity, circumstance, event or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect on the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including, without limitation, any activity, circumstance, event or series of events that may cause:*

1. *The risk-based capital of the insurer to fall below the minimum amount of risk-based capital required by regulations adopted pursuant to NRS 681B.290; or*

2. *The insurer to be in a hazardous financial condition as set forth in regulations adopted pursuant to NRS 680A.205.*

Sec. 12. 1. *If a domestic insurer is under the control of a foreign person, the officers and directors of the domestic insurer are not relieved of any obligations or liabilities to which they are subject by law. The domestic insurer must be managed in a manner that ensures its separate operating identity.*

2. *The provisions of this section do not prohibit a registered domestic insurer and one or more other persons from having or sharing common management, participating as a cooperative or sharing employees, property or services in a manner authorized under NRS 692C.360.*

3. *Except as otherwise provided in subsections 6 and 7, at least one person in any quorum for the transaction of business at any meeting of the board of directors of a registered domestic insurer or any committee thereof must be a person who is not:*

(a) An officer or employee of the domestic insurer or of any entity controlling, controlled by or under common control with the domestic insurer; or

(b) A beneficial owner of a controlling interest in the voting stock of the domestic insurer or entity.

4. *Except as otherwise provided in subsections 6 and 7, not less than one-third of the members of the board of directors of a registered domestic insurer and not less than one-third of the members of each committee of the board of directors of any registered domestic insurer must be persons described in subsection 3.*

5. *Except as otherwise provided in subsections 6 and 7, the board of directors of a registered domestic insurer shall establish one or more committees consisting solely of persons described in subsection 3. Each committee shall:*

(a) Nominate candidates for director for election by shareholders or policyholders;

(b) Evaluate the performance of each principal officer of the registered domestic insurer; and

(c) Make recommendations to the board of directors concerning the selection and compensation of each of those principal officers.

6. *The provisions of subsections 3, 4 and 5 do not apply to a registered domestic insurer if the registered domestic insurer is controlled by an entity and the board of directors of the controlling entity and the committees thereof meet the requirements of subsections 3, 4 and 5.*

7. *A registered domestic insurer may apply to the Commissioner for a waiver of the provisions of this section if the registered domestic insurer has:*

(a) Annual direct written and assumed premiums of less than \$300,000,000, excluding any premiums reinsured with:

(1) The Federal Crop Insurance Corporation of the Risk Management Agency of the United States Department of Agriculture; and

(2) The National Flood Insurance Program of the Federal Emergency Management Agency of the United States Department of Homeland Security; or

(b) In any other circumstances determined by the Commissioner to warrant a waiver.

8. In considering whether or not to grant a waiver pursuant to subsection 7, the Commissioner may consider any relevant factors, including, without limitation:

(a) The type of business entity applying for the waiver;

(b) The volume of business written;

(c) The availability of persons specified in subsection 3 to serve on the board of directors; and

(d) The ownership or organizational structure of the registered domestic insurer or controlling person thereof.

Sec. 13. 1. The Commissioner may, for any registered insurer who is part of an insurance holding company system with international operations, convene a supervisory college or participate in a supervisory college convened by a state, federal or international regulatory agency with authority over any insurer who is part of the insurance holding company system:

(a) To determine whether or not the registered insurer is in compliance with the provisions of this chapter;

(b) To assess the business strategy, financial position, legal and regulatory compliance, risk exposure, risk management and governance procedures of the registered insurer; or

(c) As part of an examination of the registered insurer pursuant to NRS 692C.410.

2. In convening a supervisory college pursuant to subsection 1, the Commissioner may, without limitation:

(a) Establish:

(1) The membership of the supervisory college;

(2) The functions of the supervisory college; and

(3) The role of each regulatory agency participating in the supervisory college;

(b) Designate a regulatory agency as supervisor of the supervisory college; and

(c) Coordinate the activities of the supervisory college, including, without limitation:

(1) Meetings;

(2) Supervisory activities; and

(3) *The sharing of information among members of the supervisory college.*

3. *In convening or participating in a supervisory college pursuant to this section, the Commissioner may enter into agreements with other state, federal or international regulatory agencies concerning the governance of a supervisory college. Such an agreement must meet the confidentiality requirements of NRS 692C.420.*

4. *The provisions of this section must not be construed to:*

(a) *Limit the authority of the Commissioner; or*

(b) *Delegate to any supervisory college the authority of the Commissioner to regulate a registered insurer or any affiliate of a registered insurer pursuant to this title.*

5. *As used in this section, "supervisory college" means a temporary or permanent forum for communication and cooperation between regulators, including, without limitation, state, federal and international regulatory agencies which are charged with regulating and supervising an insurer.*

Sec. 14. NRS 692C.020 is hereby amended to read as follows:

692C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 692C.025 to 692C.110, inclusive, and section 11 of this act have the meanings ascribed to them in those sections.

Sec. 15. NRS 692C.140 is hereby amended to read as follows:

692C.140 In addition to making investments in common stock, preferred stock, debt obligations and other securities permitted under chapter 682A of NRS, a domestic insurer may invest:

1. In common stock, preferred stock, debt obligations and other securities of one or more subsidiaries, amounts which do not exceed the lesser of 10 percent of the insurer's assets or 50 percent of its surplus as regards policyholders, if the insurer's surplus as regards policyholders remains at a reasonable level in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of such investments ~~[- the]~~:

(a) *Any investment in a domestic or foreign insurance subsidiary or health maintenance organization must be excluded.*

(b) *The following must be included:*

~~[(a)]~~ (1) Total net money or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and

~~[(b)]~~ (2) All amounts expended in acquiring additional common stock, preferred stock, debt obligations and other securities and all contributions to the capital or surplus of a subsidiary after its acquisition or formation.

2. Any amount in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries ~~[-]~~ that are engaged exclusively in or organized to engage exclusively in the ownership and management of

assets which are authorized as investments of the domestic insurer, if each subsidiary agrees to limit its investments in any asset so that those investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in subsection 1 or in chapter 682A of NRS. For the purpose of this subsection, "total investment of the insurer" includes any direct investment by the insurer in an asset and the insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which must be calculated by multiplying the amount of the subsidiary's investment by the percentage of the insurer's ownership of the subsidiary.

3. Any amount in common stock, preferred stock, debt obligations or other securities of one or more subsidiaries, with the approval of the Commissioner, if the insurer's surplus as regards policyholders remains at a reasonable level in relation to the insurer's outstanding liabilities and adequate to its financial needs.

Sec. 16. NRS 692C.160 is hereby amended to read as follows:

692C.160 Whether or not any investment made pursuant to NRS 692C.140 meets the applicable requirements thereof is to be determined ~~immediately after~~ *before* such investment is made ~~and~~ *by calculating the applicable investment limitations as though the investment has already been made*, taking into account the then outstanding principal balance on all previous investments in debt obligations, ~~and~~ the value of all previous investments in equity securities as of the date they were made ~~and~~ *and the net of any return of capital invested, not including dividends.*

Sec. 17. NRS 692C.180 is hereby amended to read as follows:

692C.180 1. No person other than the issuer may make a tender for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire or acquire in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, the person would directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of the insurer, nor may any person enter into an agreement to merge with or otherwise acquire control of a domestic insurer, unless, at the time any such offer, request or invitation is made or any such agreement is entered into, or before the acquisition of those securities if no offer or agreement is involved, the person has filed with the Commissioner and has sent to the insurer, and the insurer has sent to its shareholders, a statement containing the information required by NRS 692C.180 to 692C.250, inclusive, and , *except as otherwise provided in subsection 4*, the offer, request, invitation, agreement or acquisition has been approved by the Commissioner in the manner prescribed in this chapter.

2. *The statement required by subsection 1 must be filed with the Commissioner at least 60 days before the proposed date of the acquisition. The statement must set forth, without limitation, the information required by NRS 692C.254. A person who fails to comply with this subsection is subject to the penalties set forth in subsections 6 and 7 of NRS 692C.258.*

3. *A person controlling a domestic insurer who is seeking to divest his or her controlling interest in the domestic insurer shall file with the Commissioner, and send to the insurer, notice of the proposed divestiture at least 30 days before the proposed divestiture, unless a statement has been filed pursuant to subsection 1 concerning the proposed transaction. Notice filed pursuant to this subsection is confidential until the conclusion, if any, of the divestiture unless the Commissioner determines that such confidentiality will interfere with the enforcement of this section.*

4. *Upon receiving a statement or notice pursuant to this section by a person seeking to acquire a controlling interest in a domestic insurer or divest a controlling interest in a domestic insurer, the Commissioner shall determine whether or not the person will be required to file for and obtain the approval of the Commissioner for the acquisition or divestiture. As soon as practicable after making that determination, the Commissioner shall notify the person of the results of the determination.*

5. For purposes of this section, a domestic insurer includes any other person controlling a domestic insurer unless the other person is directly or through affiliates primarily engaged in a business other than the business of insurance. If a person is directly or through affiliates primarily engaged in a business other than the business of insurance, the person shall, at least 60 days before the proposed effective date of the acquisition, file a notice of intent to acquire with the Commissioner setting forth the information required by NRS 692C.254.

6. *As used in this section, "person" does not include a securities broker who, in the regular course of business as a broker, holds less than 20 percent of the voting securities of an insurer or of any person who controls an insurer.*

Sec. 18. NRS 692C.190 is hereby amended to read as follows:

692C.190 The statement to be filed with the Commissioner hereunder shall be made under oath or affirmation and shall contain the following:

1. The name and address of each person (hereinafter called the "acquiring party") by whom or on whose behalf the merger or other acquisition of control referred to in *subsection 1 of NRS 692C.180* is to be effected and, if such person is:

(a) An individual, the individual's principal occupation and all offices and positions held by the individual during the past 5 years, and any conviction of crimes other than for minor traffic violations during the past 10 years.

(b) Not an individual, a report of the nature of its business operations during the past 5 years or for such lesser period as such person and any predecessors thereof shall have been in existence, together with an informative description of the business intended to be done by such person and such person's subsidiaries, and a list of all individuals who are or who have been selected to become directors or executive officers of such person or who perform or will perform functions appropriate to such positions. Such

list shall include for each such individual the information required by paragraph (a).

2. The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction wherein funds were or are to be obtained for any such purpose, and the identity of persons furnishing such consideration, but where a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing such statement so requests.

3. Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding 5 fiscal years of each such acquiring party (or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence), and similar unaudited information as of a date not earlier than 90 days prior to the filing of the statement.

4. Any plans or proposals which each acquiring party may have to liquidate such insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management.

5. The number of shares of any security referred to in *subsection 1 of NRS 692C.180* which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement or acquisition referred to in *subsection 1 of NRS 692C.180* and a statement as to the method by which the fairness of the proposal was determined.

6. The amount of each class of any security referred to in *subsection 1 of NRS 692C.180* which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.

7. A full description of any contracts, arrangements or understandings with respect to any security referred to in *subsection 1 of NRS 692C.180* in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been made.

8. A description of the purchase of any security referred to in *subsection 1 of NRS 692C.180* during the 12 calendar months preceding the filing of the statement by any acquiring party, including the dates of purchase, names of the purchasers and consideration paid or agreed to be paid therefor.

9. A description of any recommendations to purchase any security referred to in *subsection 1 of NRS 692C.180* made during the 12 calendar months preceding the filing of the statement by any acquiring party, or by anyone based upon interviews with or at the suggestion of such acquiring party.

10. Copies of all tenders, offers for, requests or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in subsection 1, and, if distributed, additional soliciting material relating thereto.

11. The terms of any agreement, contract or understanding made with any broker-dealer, as to solicitation of securities referred to in *subsection 1 of NRS 692C.180*, for tender, and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

12. Such additional information as the Commissioner may by rule or regulation prescribe as necessary or appropriate for the protection of policy holders and security holders of the insurer or for the protection of the public interest.

↪ If the person required to file the statement referred to in this section is a partnership, limited partnership, syndicate or other group, the Commissioner may require that the information required by ~~subsections 1 to 12, inclusive, of~~ this section, be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group, and each person who controls such partner or member. If any such partner, member or person is a corporation or the person required to file the statement referred to in *subsection 1 of NRS 692C.180* is a corporation, the Commissioner may require that the information required by ~~subsections 1 to 12, inclusive, of~~ this section, be given with respect to such corporation, each officer and director of such corporation, and each person who is directly or indirectly the beneficial owner of more than 10 percent of the outstanding voting securities of such corporation. If any material change occurs in the facts set forth in the statement filed with the Commissioner and sent to such insurer pursuant to this section, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the Commissioner and sent to such insurer within 2 business days after the person learns of such change. Such insurer shall send each such amendment to its shareholders.

Sec. 19. NRS 692C.200 is hereby amended to read as follows:

692C.200 If any offer, request, invitation, agreement or acquisition referred to in *subsection 1 of NRS 692C.180* is proposed to be made by means of a registration statement under the Securities Act of 1933, 15 U.S.C. §§ 77a to 77aa, inclusive, or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, 15 U.S.C. §§ ~~77b~~ 78a et seq., or under any state law requiring similar registration or disclosure, the person required to file the statement referred to in *subsection 1 of NRS 692C.180* may utilize such documents in furnishing the information called for by that statement.

Sec. 20. NRS 692C.210 is hereby amended to read as follows:

692C.210 1. Except as otherwise provided in ~~subsection~~ *subsections 5 ~~and~~ 7*, the Commissioner shall approve any merger or other

acquisition of control referred to in *subsection 1 of NRS 692C.180* unless, after a public hearing thereon, the Commissioner finds that:

(a) After the change of control, the domestic insurer specified in *subsection 1 of NRS 692C.180* would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(b) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly;

(c) The financial condition of any acquiring party may jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders or the interests of any remaining security holders who are unaffiliated with the acquiring party;

(d) The terms of the offer, request, invitation, agreement or acquisition referred to in *subsection 1 of NRS 692C.180* are unfair and unreasonable to the security holders of the insurer;

(e) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer or not in the public interest;

(f) The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer or of the public to permit the merger or other acquisition of control;

(g) If approved, the merger or acquisition of control would likely be harmful or prejudicial to the members of the public who purchase insurance; or

(h) The practices of the applicant in managing claims have evidenced a pattern in which the applicant has knowingly committed, or performed with such frequency as to indicate a general business practice of:

(1) Misrepresentation of pertinent facts or provisions of policies of insurance as they relate to coverages at issue;

(2) Failure to affirm or deny coverage of claims within a reasonable time after written proofs of loss have been furnished; or

(3) Failure to pay claims in a timely manner.

2. ~~The~~ Except as otherwise provided in *subsection 7*, the public hearing specified in *subsection 1* must be held within ~~60~~ 30 days after the statement required by *subsection 1 of NRS 692C.180* has been filed, and at least 20 days' notice thereof must be given by the Commissioner to the person filing the statement. Not less than 7 days' notice of the public hearing must be given by the person filing the statement to the insurer and to any other person designated by the Commissioner. The insurer shall give such notice to its security holders. The Commissioner shall make a determination within 60 days after the conclusion of the hearing. If the Commissioner determines

that an infusion of capital to restore capital in connection with the change in control is required, the requirement must be met within 60 days after notification is given of the determination. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent and any other person whose interests may be affected thereby may present evidence, examine and cross-examine witnesses, and offer oral and written arguments and, in connection therewith, may conduct discovery proceedings in the same manner as is presently allowed in the district court of this state. All discovery proceedings must be concluded not later than 3 days before the commencement of the public hearing.

3. The Commissioner may retain at the acquiring party's expense attorneys, actuaries, accountants and other experts not otherwise a part of the staff of the Commissioner as may be reasonably necessary to assist the Commissioner in reviewing the proposed acquisition of control.

4. The period for review by the Commissioner must not exceed the 60 days allowed between the filing of the notice of intent to acquire required pursuant to subsection ~~[2]~~ 5 of NRS 692C.180 and the date of the proposed acquisition if the proposed affiliation or change of control involves a financial institution, or an affiliate of a financial institution, and an insured.

5. When making a determination pursuant to paragraph (b) of subsection 1, the Commissioner:

(a) Shall require the submission of the information specified in subsection 2 of NRS 692C.254; ~~and~~

(b) *Shall consider:*

(1) *The standards set forth in the Horizontal Merger Guidelines issued by the United States Department of Justice and the Federal Trade Commission and in effect at the time the Commissioner receives the statement required pursuant to subsection 1 of NRS 692C.180; and*

(2) *The factors described in subsection 3 of NRS 692C.256; and*

(c) May condition approval of the merger or acquisition of control in the manner provided in subsection 4 of NRS 692C.258.

6. If, in connection with a change of control of a domestic insurer, the Commissioner determines that the person who is acquiring control of the domestic insurer must maintain or restore the capital of the domestic insurer in an amount that is required by the laws and regulations of this state, the Commissioner shall make the determination not later than 60 days after the notice of intent to acquire required pursuant to subsection ~~[2]~~ 5 of NRS 692C.180 is filed with the Commissioner.

7. *If the proposed merger or other acquisition of control referred to in subsection 1 of NRS 692C.180 requires the approval of the commissioner of more than one state, the public hearing required pursuant to subsection 1 may, upon the request of the person who filed the statement required pursuant to subsection 1 of NRS 692C.180, be consolidated with the hearings required in other states. Not more than 5 days after receiving such a request, the Commissioner shall file with the National Association of Insurance*

Commissioners a copy of the statement that was filed with the Commissioner pursuant to subsection 1 of NRS 692C.180 by the person requesting a consolidated hearing. The Commissioner may opt out of a consolidated hearing and, if the Commissioner elects to do so, he or she shall provide notice to the person requesting the consolidated hearing not more than 10 days after receiving the statement filed pursuant to subsection 1 of NRS 692C.180. A consolidated hearing must be public and must be held within the United States before participating commissioners of the states in which the insurers are domiciled. Participating commissioners may hear and receive evidence at the hearing.

Sec. 21. NRS 692C.256 is hereby amended to read as follows:

692C.256 1. The Commissioner may issue an order pursuant to NRS 692C.258 relating to an acquisition if:

(a) The effect of the acquisition may substantially lessen competition in any line of insurance in this state or tend to create a monopoly; or

(b) The acquiring person fails to file sufficient materials or information pursuant to NRS 692C.254.

2. In determining whether to issue an order pursuant to subsection 1, the Commissioner shall consider the standards set forth in the Horizontal Merger Guidelines issued by the United States Department of Justice and the Federal Trade Commission and in effect at the time the Commissioner receives the notice required pursuant to NRS 692C.254.

3. The Commissioner shall, before issuing an order specified in subsection 1, consider:

(a) If:

(1) The acquisition creates substantial economies of scale or economies in the use of resources that may not be created in any other manner; and

(2) The public benefit received from those economies exceeds the public benefit received from not lessening competition; or

(b) If:

(1) The acquisition substantially increases the availability of insurance; and

(2) The public benefit received by that increase exceeds the public benefit received from not lessening competition.

4. The public benefits set forth in subparagraph 2 of paragraphs (a) and (b) of subsection 3 may be considered together, as applicable, in assessing whether the public benefits received from the acquisition exceed any benefit to competition that would arise from disapproving the acquisition.

5. The ~~acquiring person~~ Commissioner has the burden of establishing that the acquisition will ~~not~~ result in a violation of the competitive standard set forth in subsection 1.

Sec. 22. NRS 692C.270 is hereby amended to read as follows:

692C.270 Every insurer subject to registration shall file ~~it~~ :

1. A registration statement on a form provided by the Commissioner, which must contain current information about:

~~1-1~~ (a) The capital structure, general financial condition, ownership and management of the insurer and any person controlling the insurer.

~~2-1~~ (b) The identity of every member of the insurance holding company system.

~~3-1~~ (c) The following agreements in force, relationships subsisting and transactions currently outstanding between the insurer and its affiliates:

~~(a)~~ (1) Loans, other investments or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates.

~~(b)~~ (2) Purchases, sales or exchanges of assets.

~~(c)~~ (3) Transactions not in the ordinary course of business.

~~(d)~~ (4) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business.

~~(e)~~ (5) All management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles.

~~(f)~~ (6) Reinsurance agreements covering all or substantially all of one or more lines of insurance of the ceding company.

~~(g)~~ (7) Any dividend or other distribution made to a shareholder.

~~(h)~~ (8) Any consolidated agreement to allocate taxes.

~~4-1~~ (d) Any pledge of the insurer's stock, including the stock of any subsidiary or controlling affiliate of the insurer, for a loan made to any member of the insurance holding company system.

~~5-1~~ (e) Any other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the Commissioner.

2. *A statement verifying that:*

(a) *The board of directors of the insurer oversees the corporate governance and internal controls of the insurer; and*

(b) *Officers or senior management of the insurer have approved, implemented and continue to maintain and monitor the corporate governance and internal controls of the insurer.*

3. *Financial statements of the insurance holding company system and all affiliates, if requested by the Commissioner. This requirement may be satisfied by providing the most recent statement filed with the United States Securities and Exchange Commissioner pursuant to the Securities Act of 1933, 15 U.S.C. §§ 78a et seq., by the insurance holding company system or its parent corporation.*

Sec. 23. NRS 692C.290 is hereby amended to read as follows:

692C.290 1. Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on forms provided by the Commissioner within 15 days after the end of the month in which it learns of each such change or addition, and not less often than annually, except that, subject to the provisions of

NRS 692C.390, each registered insurer shall report all dividends and other distributions to shareholders within 5 business days following the declaration and 10 days before payment.

2. *If the principal of a registered insurer does not file a report of enterprise risk with the commissioner of the lead state of the insurance company system, as determined by the most recent edition of the Financial Analysis Handbook, published by the National Association of Insurance Commissioners, in a calendar year, the principal shall file a report of enterprise risk with the Commissioner. The principal shall include in the report the material risks within the insurance holding company system that, to the best of his or her knowledge and belief, may pose enterprise risk to the registered insurer.*

Sec. 24. NRS 692C.360 is hereby amended to read as follows:

692C.360 1. Material transactions by registered insurers with their affiliates are subject to all of the following standards:

~~{1-}~~ (a) The terms must be fair and reasonable.

~~{2-}~~ (b) Charges or fees for services performed must be reasonable.

~~{3-}~~ (c) Expenses incurred and payment received must be allocated to the insurer in conformity with customary accounting practices concerning insurance consistently applied.

~~{4-}~~ (d) The books, accounts and records of each party must be so maintained as to disclose clearly and accurately the precise nature and details of the transactions ~~{-~~

~~{5-}~~ *and must include any accounting information required to support the reasonableness of any charges or fees.*

(e) The insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates must be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

2. *The Commissioner may adopt regulations governing agreements for sharing the cost of services or management between registered insurers and their affiliates.*

Sec. 25. NRS 692C.363 is hereby amended to read as follows:

692C.363 1. ~~{A}~~ *Except as otherwise provided in subsection 2, a domestic insurer shall not enter into any of the following transactions with an affiliate unless the insurer has notified the Commissioner in writing of its intention to enter into the transaction at least ~~{60}~~ 30 days previously, or such shorter period as the Commissioner may permit, and the Commissioner has not disapproved it within that period:*

(a) A sale, purchase, exchange, loan or extension of credit, guaranty or investment if the transaction equals at least:

(1) With respect to an insurer other than a life insurer, the lesser of 3 percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders; or

(2) With respect to a life insurer, 3 percent of the insurer's admitted assets,

↪ computed as of December 31 next preceding the transaction.

(b) A loan or extension of credit to any person who is not an affiliate, if the insurer makes the loan or extension of credit with the agreement or understanding that the proceeds of the transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurer if the transaction equals at least:

(1) With respect to insurers other than life insurers, the lesser of 3 percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders; or

(2) With respect to life insurers, 3 percent of the insurer's admitted assets,

↪ computed as of December 31 next preceding the transaction.

(c) ~~[An]~~ A *pooling agreement or other* agreement for reinsurance or a modification thereto in which the premium for reinsurance or a change in the insurer's liabilities equals at least 5 percent of the insurer's surplus as regards policyholders as of December 31 next preceding the transaction, including an agreement which requires as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of those assets will be transferred to an affiliate of the insurer.

(d) An agreement for management, *agreement to allocate taxes*, contract for service, guarantee or arrangement to share costs.

(e) A guaranty made by a domestic insurer, *regardless of whether the guaranty is quantifiable as to amount*, except that a guaranty that is quantifiable as to amount is not subject to the provisions of this subsection unless the guaranty exceeds the lesser of one-half of 1 percent of the admitted assets of the domestic insurer or 10 percent of its surplus as regards policyholders as of December 31 next preceding the guaranty.

(f) Except as otherwise provided in subsection ~~[3,] 4~~, a direct or indirect acquisition of or investment in a person who controls the domestic insurer or an affiliate of the domestic insurer in an amount that, when added to its present holdings, exceeds 2.5 percent of the domestic insurer's surplus to policyholders.

(g) A material transaction, specified by regulation, which the Commissioner determines may adversely affect the interest of the insurer's policyholders.

2. *A domestic insurer shall not amend or modify any agreement with an affiliate to enter into a transaction subject to the provisions of subsection 1 unless the insurer notifies the Commissioner. The notice must be given not less than 30 days before the effective date of the amendment or modification and must include, without limitation, the reasons for the amendment or modification and the financial impact, if any, of the amendment or modification on the domestic insurer. Upon receipt of a notice pursuant to this subsection, the Commissioner shall determine whether the amendment or*

modification is subject to the provisions of subsection 1 and notify the domestic insurer of the Commissioner's determination within 30 days. If the Commissioner does not give such notice within 30 days after receiving the notice from the domestic insurer, the amendment or modification shall be deemed to be approved.

3. This section does not authorize or permit any transaction which, in the case of an insurer not an affiliate, would be contrary to law.

~~3-1~~ 4. The provisions of paragraph (f) of subsection 1 do not apply to a direct or indirect acquisition of or investment in:

(a) A subsidiary acquired in accordance with this section or NRS 692C.140; or

(b) A nonsubsidiary insurance affiliate that is subject to the provisions of this chapter.

Sec. 26. (Deleted by amendment.)

Sec. 27. NRS 692C.390 is hereby amended to read as follows:

692C.390 1. An insurer subject to registration under NRS 692C.260 to 692C.350, inclusive, shall not pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until:

(a) Thirty days after the Commissioner has received notice of the declaration thereof and has not within that period disapproved the payment; or

(b) The Commissioner approves the payment within the 30-day period.

2. A request for approval of an extraordinary dividend or any other extraordinary distribution pursuant to subsection 1 must include:

(a) A statement indicating the amount of the proposed dividend or distribution;

(b) The date established for the payment of the proposed dividend or distribution;

(c) A statement indicating whether the proposed dividend or distribution is to be paid in the form of cash or property and, if it is to be paid in the form of property, a description of the property, its cost and its fair market value together with an explanation setting forth the basis for determining its fair market value;

(d) A copy of a work paper or other document setting forth the calculations used to determine that the proposed dividend or distribution is extraordinary, including:

(1) The amount, date and form of payment of each regular dividend or distribution paid by the insurer, other than any distribution of a security of the insurer, within the 12 consecutive months immediately preceding the date established for the payment of the proposed dividend or distribution;

(2) The amount of surplus, if any, as regards policyholders, including total capital and surplus, as of December 31 next preceding;

(3) If the insurer is a life insurer, the amount of any net gains obtained from the operations of the insurer for the 12-month period ending December 31 next preceding;

(4) If the insurer is not a life insurer, the amount of net income of the insurer less any realized capital gains for the 12-month period ending on the December 31 of the year next preceding and the two consecutive 12-month periods immediately preceding that period; and

(5) If the insurer is not a life insurer, the amount of each dividend paid by the insurer to shareholders, other than a distribution of any securities of the insurer, during the preceding 2 calendar years;

(e) A balance sheet and statement of income for the period beginning on the date of the last annual statement filed by the insurer with the Commissioner and ending on the last day of the month immediately preceding the month in which the insurer files the request for approval; and

(f) A brief statement setting forth:

(1) The effect of the proposed dividend or distribution upon the insurer's surplus;

(2) The reasonableness of the insurer's surplus in relation to the insurer's outstanding liabilities; and

(3) The adequacy of the insurer's surplus in relation to the insurer's financial requirements.

3. *In determining whether a dividend or distribution is extraordinary, an insurer other than a life insurer may carry forward net income from the previous 2 calendar years that has not already been paid out as dividends. The amount the insurer may carry forward must be computed by taking the net income from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediately preceding calendar years.*

4. Each insurer specified in subsection 1 that pays an extraordinary dividend or makes any other extraordinary distribution to its shareholders shall, within 15 days after declaring the dividend or making the distribution, report that fact to the Commissioner. The report must include the information specified in paragraph (d) of subsection 2.

Sec. 28. NRS 692C.410 is hereby amended to read as follows:

692C.410 1. Subject to the limitation contained in this section and in addition to the powers which the Commissioner has under NRS 679B.230 to 679B.287, inclusive, relating to the examination of insurers, the Commissioner may ~~order~~ *examine* any insurer registered under NRS 692C.260 to 692C.350, inclusive, ~~to produce such records, books or other information papers in its possession or in the possession of its affiliates as may be necessary to ascertain the financial condition or legality of conduct of such insurer.~~ *and any affiliate of the insurer to ascertain the financial condition of the insurer, including, without limitation, the enterprise risk posed to the insurer by a person controlling the insurer, any entity or combination of entities within the insurance holding company system or by the insurance holding company system. The Commissioner may order any insurer registered under NRS 692C.260 to 692C.350, inclusive, to produce any information not in the possession of the insurer if the insurer is able to*

obtain the information pursuant to any contractual or statutory requirement or any other method. If the insurer is unable to obtain any information requested by the Commissioner pursuant to this section, the insurer shall provide to the Commissioner a statement setting forth the reasons the insurer is unable to obtain the information and the identity of the holder of the information, if known to the insurer. Whenever it appears to the Commissioner that the detailed explanation is without merit, the Commissioner may require, after notice and hearing, the insurer to pay a penalty of \$100 for each day the requested information is not produced or may suspend or revoke the license of the insurer. In the event such insurer fails to comply with such order, the Commissioner may examine such affiliates to obtain such information.

2. The Commissioner shall exercise his or her power under ~~subsection~~ *subsections 1 and 5* only if the examination of the insurer under NRS 679B.230 to 679B.287, inclusive, is inadequate or the interests of the policyholders of such insurer may be adversely affected.

3. The Commissioner may retain at the registered insurer's expense such attorneys, actuaries, accountants and other experts not otherwise a part of the Commissioner's staff as may be reasonably necessary to assist in the conduct of the examination under ~~subsection~~ *subsections 1 and 5*. Any persons so retained shall be under the direction and control of the Commissioner and shall act in a purely advisory capacity.

4. Each ~~registered~~ insurer producing for examination *any information pursuant to subsection 1 or any records, books and papers pursuant to subsection 5* shall be liable for and shall pay the expense of such examination in accordance with NRS 679B.290.

5. *To carry out the provisions of this section and except as otherwise provided in subsection 2, the Commissioner may subpoena witnesses, compel their attendance, administer oaths, examine any person under oath concerning the subject of the examination and require the production of any books, papers, records, correspondence or any other documents which the Commissioner deems relevant to the examination. If any person fails to obey a subpoena or refuses to testify as to any matter relating to the subject of the examination, the Commissioner may file a written report describing the refusal and proof of service of the subpoena in any court of competent jurisdiction in the county in which the examination is being conducted, for such action as the court may determine. Failure by the person to obey an order of the court pursuant to this section is punishable as contempt of court.*

6. *A person subpoenaed under subsection 5 is entitled to witness fees and mileage as allowed for testimony in a court of record. The insurer or affiliate being examined must pay the witness fees and mileage, as well as any other expense incurred in securing the attendance of witnesses for the examination in accordance with NRS 679B.290.*

Sec. 28.5. NRS 694C.143 is hereby amended to read as follows:

694C.143 "Sponsor" means an insurer licensed pursuant to the laws of any state, a reinsurer authorized or approved under the laws of any state, ~~for~~ a captive insurer formed or licensed pursuant to this chapter *or a person* that:

1. Meets the requirements of subsection 3 of NRS 694C.180 ~~for~~ *or is approved as a sponsor by the Commissioner*; and
2. Is approved by the Commissioner to provide all or part of the capital and surplus required by applicable law and to organize and operate a sponsored captive insurer.

Sec. 28.6. NRS 694C.195 is hereby amended to read as follows:

694C.195 1. One or more sponsors may form a sponsored captive insurer pursuant to this chapter.

2. A sponsored captive insurer formed or licensed pursuant to this chapter may establish and maintain one or more protected cells to insure the risks of one or more participants, subject to the following conditions:

(a) The shareholders of a sponsored captive insurer must be limited to its participants and sponsors, provided that the sponsored captive insurer may issue nonvoting securities to other persons on terms approved by the Commissioner;

(b) Each protected cell must be accounted for separately on the books and records of the sponsored captive insurer to reflect the financial condition and results of operations of that protected cell, including, but not limited to, the net income or loss, dividends, or other distributions to participants, and such other factors as may be set forth in the participant contract or required by the Commissioner;

(c) The assets of a protected cell must not be chargeable with liabilities arising out of any other insurance business which the sponsored captive insurer may conduct;

(d) A sponsored captive insurer shall not make a sale, exchange, transfer of assets, dividend or distribution between or among any of its protected cells without the consent of any participant for which the protected cells are maintained;

(e) A sponsored captive insurer shall not make a sale, exchange, transfer of assets, dividend or distribution from a protected cell to a sponsor or participant without the prior written approval of the Commissioner, and the Commissioner shall not give written approval if the sale, exchange, transfer, dividend or distribution would result in the insolvency or impairment of the protected cell;

(f) On or before March 1 of each year, a sponsored captive insurer must file with the Commissioner a report of its financial condition, including, but not limited to, accounting statements detailing the financial experience of each protected cell and any other information required by the Commissioner;

(g) A sponsored captive insurer must notify the Commissioner not more than 10 business days after a protected cell becomes insolvent or otherwise unable to meet its claims or expense obligations;

(h) A participant contract must not become effective without the prior written approval of the Commissioner;

(i) The addition of each new protected cell, the withdrawal of any participant of a protected cell or the termination of any existing protected cell constitutes a change in the business plan and requires the prior written approval of the Commissioner; and

(j) The business written by a sponsored captive insurer with respect to each protected cell must be:

(1) Fronted by an insurer licensed pursuant to the laws of any state;

(2) Reinsured by a reinsurer authorized or approved by the Commissioner; or

(3) Secured by a trust fund in the United States for the benefit of policyholders and claimants or funded by an irrevocable letter of credit or other arrangement that is acceptable to the Commissioner. The amount of security provided must not be less than the reserves associated with those liabilities, which are not fronted or reinsured pursuant to subparagraph (1) or (2), including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums for business written through the protected cell maintained for the participant. The Commissioner may require the sponsored captive insurer to increase the funding of any security arrangement established under this subsection. If the form of security is a letter of credit, the letter of credit must be established, issued or confirmed by a bank chartered in this State, a member of the Federal Reserve System or a bank chartered in another state if the bank is deemed acceptable by the Commissioner. A trust maintained pursuant to this subparagraph must be established in a form and under such terms that are approved by the Commissioner.

3. A sponsor of a sponsored captive insurer must:

(a) Be an insurer licensed pursuant to the laws of any state, a reinsurer authorized or approved under the laws of any state, ~~for~~ a captive insurer formed or licensed pursuant to this chapter ~~for~~ or a person approved as a sponsor by the Commissioner; and

(b) Not be a risk retention group.

4. A participant in a sponsored captive insurer need not be a shareholder of the sponsored captive insurer or an affiliate of the sponsored captive insurer and:

(a) May be an association, corporation, limited-liability company, partnership, trust or other form of business organization;

(b) May be a sponsor of the sponsored captive insurer; and

(c) Must not be a risk retention group.

5. A participant in a sponsored captive insurer shall insure only its own risks through a sponsored captive insurer.

Sec. 29. NRS 694C.400 is hereby amended to read as follows:

694C.400 1. On or before ~~June 30~~ March 1 of each year, a captive insurer shall submit to the Commissioner a report of its financial condition .

~~{ as prepared by a certified public accountant. }~~ A captive insurer shall use generally accepted accounting principles and include any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. Except as otherwise provided in this section, each association captive insurer, agency captive insurer, rental captive insurer or sponsored captive insurer shall file its report in the form required by NRS 680A.270. The Commissioner shall adopt regulations designating the form in which pure captive insurers must report.

2. A pure captive insurer may apply, in writing, for authorization to file its annual report based on a fiscal year that is consistent with the fiscal year of the parent company of the pure captive insurer. If an alternative date is granted ~~{:~~

~~(a) The~~, the annual report is due not later than ~~{180}~~ 60 days after the end of each such fiscal year. ~~{ and~~

~~(b) The~~

3. A pure captive insurer shall file on or before March 1 of each year such forms as required by the Commissioner by regulation to provide sufficient detail to support its premium tax return filed pursuant to NRS 694C.450.

~~{3-}~~ 4. Any captive insurer failing, without just cause beyond the reasonable control of the captive insurer, to file its annual statement as required by subsection 1 shall pay a penalty of \$100 for each day the captive insurer fails to file the report, but not to exceed an aggregate amount of \$3,000, to be recovered in the name of the State of Nevada by the Attorney General.

~~{4-}~~ 5. Any director, officer, agent or employee of a captive insurer who subscribes to, makes or concurs in making or publishing, any annual or other statement required by law, knowing the same to contain any material statement which is false, is guilty of a gross misdemeanor.

Sec. 30. NRS 695E.080 is hereby amended to read as follows:

695E.080 "Plan of operation" means an analysis of the expected activities and results of a risk retention group, including:

1. The coverages, deductibles, limits of coverage, rates and systems of rating classification for each line of insurance the group intends to offer;

2. Historical and expected loss experience of the proposed members, and national experience of similar exposures to the extent that this experience is reasonably available;

3. Pro forma financial statements and projections;

4. Appropriate opinions by a qualified, independent casualty actuary, including a determination of minimum premium or participation levels required to commence operations and to prevent a hazardous financial condition;

5. Identification of management, underwriting procedures, policies for investment and methods for managerial oversight; ~~and~~

6. *Identification of each state in which the group has obtained, or sought to obtain, a charter and a license, and a description of the status of the group in each of those states;*

7. *Information that is deemed sufficient by the Commissioner to verify that members of the group are engaged in business activities similar or related with respect to the liability to which they are exposed because of any related, similar or common business, trade, product, service, premise or operation; and*

8. Such other matters as are prescribed by the Commissioner for liability insurers authorized by the insurance laws of the state in which the risk retention group is chartered.

Sec. 31. NRS 695E.120 is hereby amended to read as follows:

695E.120 A purchasing group that intends to conduct business in this state shall register with the Commissioner and:

1. Furnish notice to the Commissioner that:

- (a) Identifies the state in which the group is domiciled;
- (b) Specifies the lines and classifications of liability insurance that the purchasing group intends to purchase;
- (c) Identifies the insurer from which the group intends to purchase its insurance and the domicile of the insurer;
- (d) Identifies the principal place of business of the group;
- (e) Identifies all other states in which the group intends to do business; ~~and~~

(f) *Specifies the method by which insurance will be offered to its members whose risks are resident, located or to be performed in this State;*

(g) *Provides the name, address and telephone number of each person, if any, through whom insurance will be offered to its members whose risks are resident, located or to be performed in this State; and*

(h) Provides such other information as the Commissioner requires to verify and determine:

- (1) Its qualification as a purchasing group;
- (2) Where the purchasing group is located; and
- (3) The appropriate tax treatment of the purchasing group; and

2. Appoint the Commissioner as its agent solely to receive service of legal process, and pay the fee for filing a power of attorney required by subsection 4 of NRS 680B.010, except that this subsection does not apply to a purchasing group that:

(a) Was domiciled before April 1, 1986, and on and after October 27, 1986, in any state;

(b) Before and after October 27, 1986, purchased its insurance from an insurer licensed in any state;

(c) Was a purchasing group under the requirements of the Product Liability Risk Retention Act of 1981 before October 27, 1986; and

(d) Does not purchase insurance that was not authorized for an exemption under that act, as in effect before October 27, 1986.

Sec. 32. NRS 695E.140 is hereby amended to read as follows:

695E.140 1. A risk retention group seeking to be chartered in this State must obtain a certificate of authority pursuant to chapter 694C of NRS to transact liability insurance and, except as otherwise provided in this chapter, must comply with:

(a) All of the laws, regulations and requirements applicable to liability insurers in this State ~~{}~~, *unless otherwise approved by the Commissioner*; and

(b) The provisions of NRS 695E.150 to 695E.210, inclusive, to the extent that those provisions do not limit or conflict with the provisions with which the group is required to comply pursuant to paragraph (a).

2. *A risk retention group applying to be chartered in this State must submit to the Commissioner in summary form:*

(a) *The identities of:*

(1) *All members of the group;*

(2) *All organizers of the group;*

(3) *Those persons who will provide administrative services to the group; and*

(4) *Any person who will influence or control the activities of the group;*

(b) *The amount and nature of initial capitalization of the group;*

(c) *The coverages to be offered by the group; and*

(d) *Each state in which the group intends to operate.*

3. Before it may transact insurance in any state, the risk retention group must submit to the Commissioner for approval by the Commissioner a plan of operation. The risk retention group shall submit an appropriate revision in the event of any subsequent material change in any item of the plan of operation within 10 days after the change. The group shall not offer any additional kinds of liability insurance, in this State or in any other state, until a revision of the plan is approved by the Commissioner.

~~{}~~ 4. *A risk retention group chartered in this State must file with the Commissioner on or before February 1 of each year a statement containing information concerning the immediately preceding year, which must be:*

(a) *Submitted in a form prescribed by the National Association of Insurance Commissioners;*

(b) *Prepared in accordance with the Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners and effective on January 1, 2001, and as amended by the National Association of Insurance Commissioners after that date; and*

(c) *Submitted on a diskette, if required by the Commissioner.*

5. *The Commissioner shall transmit to the National Association of Insurance Commissioners a copy of:*

(a) *All information submitted by a risk retention group to the Commissioner pursuant to subsections 2 and 4; and*

(b) Any revisions to a plan of operation submitted to the Commissioner pursuant to subsection 3.

6. A risk retention group chartered in a state other than Nevada that is seeking to transact insurance as a risk retention group in this State must comply with the provisions of NRS 695E.150 to 695E.210, inclusive.

Sec. 33. NRS 695E.150 is hereby amended to read as follows:

695E.150 1. Before transacting insurance in this state, a risk retention group must submit to the Commissioner:

~~1.~~ (a) A statement of registration identifying:

~~(a)~~ (1) Each state in which the risk retention group is chartered or licensed as a liability insurer;

~~(b)~~ (2) The date of its charter;

~~(c)~~ (3) Its principal place of business; and

~~(d)~~ (4) Such other information, including information concerning its membership, as the Commissioner requires to verify its qualification as a risk retention group;

~~2.~~ (b) A copy of its plan of operation and any revisions of the plan submitted to its state of domicile, except with respect to any line or classification of liability that was:

~~(a)~~ (1) Defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986; and

~~(b)~~ (2) Offered before that date by a risk retention group that had been chartered and operating for not less than 3 years before that date; and

~~3.~~ (c) A statement appointing the Commissioner as its agent for service of process pursuant to NRS 680A.250, together with the fee for filing a power of attorney required by subsection 4 of NRS 680B.010.

2. *The Commissioner shall, upon receipt of any revisions of a plan of operation provided by a risk retention group pursuant to paragraph (b) of subsection 1, transmit a copy of those revisions to the National Association of Insurance Commissioners.*

Sec. 34. NRS 695E.170 is hereby amended to read as follows:

695E.170 1. A risk retention group and its agents and representatives are subject to the provisions of NRS 686A.010 to 686A.310, inclusive. Any injunction obtained pursuant to those sections must be obtained from a court of competent jurisdiction.

2. All premiums paid for coverages within this state to a risk retention group are subject to the provisions of chapter 680B of NRS. Each risk retention group shall report all premiums paid to it and shall pay the taxes on premiums and any related fines or penalties for risks resident, located or to be performed in the state.

3. *Any person acting as an agent or a broker for a risk retention group pursuant to NRS 695E.210 shall:*

(a) Report to the Commissioner each premium for direct business for risks resident, located or to be performed in this State which the person has placed with or on behalf of a risk retention group that is not chartered in this State.

(b) *Maintain a complete and separate record of each policy obtained from each risk retention group. Each record maintained pursuant to this subsection must be made available upon request by the Commissioner for examination pursuant to NRS 679B.240, and must include, for each policy and each kind of insurance provided therein:*

- (1) *The limit of liability;*
- (2) *The period covered;*
- (3) *The effective date;*
- (4) *The name of the risk retention group which issued the policy;*
- (5) *The gross annual premium charged; and*
- (6) *The amount of return premiums, if any.*

4. *As used in this section, "premiums for direct business" means any premium written in this State for a policy of insurance. The term does not include any premium for reinsurance or for a contract between members of a risk retention group.*

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Thank you, Mr. President. Amendment No. 927 to Assembly Bill No. 435 authorizes the Commissioner of Insurance to approve a person, who is not an insurer, a reinsurer or a captive insurer, as a sponsor of a captive insurer.

Amendment adopted.

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

Assembly Bill No. 464.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 261.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 935.

"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~~ prohibiting 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]~~ under certain circumstances; requiring an owner of a business which involves the use of door-to-door commercial solicitation to maintain specified records; requiring the use of identification badges [to] by persons who engage in such solicitation; [prohibiting commercial solicitation under certain circumstances;] authorizing ~~[disciplinary action against the holder of a permit or identification badge; providing a penalty;]~~ the governing body of a county, city or unincorporated town to require a license for the operation of a business which involves the use of such solicitation, and to charge and

collect a fee for the license; 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 prohibits door-to-door commercial solicitation by certain persons and requires ~~for a person who engages in the~~ an owner of a business ~~for~~ which involves the use of door-to-door commercial 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.~~ to maintain specified business records and records relating to agents and employees of the business who engage in such solicitation. 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.~~ prohibits the owner of such a business or any agent or employee of the business from engaging in door-to-door commercial solicitation if the owner, agent or employee has been convicted of a felony during the preceding 5 years or, during the preceding 2 years, has been adjudged to have violated any specified statute relating to deceptive trade practices or the unlawful employment of children.

Sections 17-19 of this bill directly regulate the conduct of door-to-door commercial solicitation. Section 17 requires a ~~permitted solicitor~~ person who engages in such solicitation to display ~~his or her~~ an identification badge that meets the requirements of that section 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 door-to-door commercial solicitation may be conducted. Section 19 makes it

unlawful to engage in such solicitation wherever a "no solicitation" or "no trespassing" sign is 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.]~~

Section 24 of this bill provides that any violation of the provisions of this bill constitutes a deceptive trade practice.

Sections 46.2, 46.4 and 46.6 of this bill authorize the governing body of any county, city or unincorporated town, respectively, to: (1) require a license to operate a business which involves the use of door-to-door commercial solicitation; and (2) charge and collect a fee for the issuance and renewal of such a license. Section 46.8 of this bill exempts any such fee from provisions of existing law which limit increases in fees for business licenses.

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

Section 1. (Deleted by amendment.)

Sec. 2. Chapter ~~599B~~ 598 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 ~~44~~ 3.5 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3.5. "Commissioner" means the Commissioner of Consumer Affairs.

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. 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.

↳ The term does not include door-to-door noncommercial solicitation.

Sec. 4.5. "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. Polling, canvassing or gathering information.

Sec. 5. (Deleted by amendment.)

Sec. 5.5. "Door-to-door solicitor" means a person who is an agent or employee of an owner of a business which involves the use of door-to-door commercial solicitation and who engages in door-to-door commercial solicitation.

Sec. 6. ~~["Permit holder"]; "Owner of a business which involves the use of door-to-door commercial solicitation" or "owner" means a person [to whom a permit has been issued by the Division pursuant to section 11 of this act.] who:~~

1. Engages in door-to-door commercial solicitation personally or through an agent or employee; and

2. Owns a business for which one or more persons engage in door-to-door commercial solicitation, without regard to whether the door-to-door commercial solicitation is a primary purpose of the business.

Sec. 7. (Deleted by amendment.)

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 ~~fa permit holder or permitted solicitor~~ an owner of a business which involves the use of door-to-door commercial solicitation or a door-to-door 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 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;~~

~~(4) It is unlawful for an owner of a business which involves the use of door-to-door commercial solicitation to engage in door-to-door commercial solicitation in this State, personally or through a door-to-door solicitor, unless the owner maintains the following records:~~

~~(a) A copy of ~~the applicant's~~ :~~

~~(1) The owner's state business license issued pursuant to chapter 76 of NRS ; and ~~any~~~~

~~(2) Any business license , including any license required for door-to-door commercial solicitation as authorized by sections 46.2, 46.4 and 46.6 of this act, which may be required by ~~the~~ any local government where the ~~applicant will engage~~ owner, personally or through a door-to-door solicitor, engages in door-to-door commercial solicitation;~~

~~(c) 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 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~~

~~(b) A list of the ~~persons~~ door-to-door solicitors who ~~will be~~ authorized to act as permitted solicitors pursuant to the permit if the application is granted are agents or employees of the owner and, for each such ~~person~~ door-to-door solicitor:~~

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

~~(2) A complete set of the fingerprints of the ~~person~~ door-to-door solicitor and written permission authorizing ~~the Division~~ a law enforcement agency 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;~~

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

~~(4) A color photograph of the ~~person~~ door-to-door solicitor, taken not more than 6 months preceding the current date , ~~of the application,~~ which fairly depicts the appearance of the ~~person~~ door-to-door solicitor as of the current date ~~of the application~~ and is suitable for reproduction on an identification badge ~~issued pursuant to~~ which meets the requirements of section ~~11~~ 17 of this act; and~~

~~(5) The number and state of issuance of the driver's license of the ~~person~~ door-to-door solicitor, 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 \$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.~~ An owner of a business which involves the use of door-to-door commercial solicitation shall make available the records set forth in subsection 2 for the inspection of any law enforcement officer at all times during the ordinary hours of business.

Sec. 10. ~~[A person is not eligible for a permit or identification badge]~~ An owner of a business which involves the use of door-to-door commercial solicitation shall not engage in door-to-door commercial solicitation, personally or through a door-to-door solicitor, and a door-to-door solicitor shall not engage in door-to-door commercial solicitation if ~~he or she~~ the owner or door-to-door solicitor has been:

1. ~~[He or she has previously been convicted]~~ Convicted of a felony for any crime involving theft, fraud or dishonesty under the laws of this State or an equivalent offense under any federal ~~or~~ state ~~or local~~ law ~~or ordinance;~~ during the immediately preceding 5 years; or

2. ~~[A permit or identification badge issued to the person has been revoked]~~ Convicted of or otherwise adjudged to have committed any violation of a provision of NRS 207.171, 598.0903 to 598.0999, inclusive, 598.140 to 598.2801, inclusive, 609.190, 609.221 or 609.240 to 609.260, inclusive, or sections 3 to 24, inclusive, of this act during the immediately preceding 2 years ~~by the Division pursuant to section 21 of this act.~~

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. ~~[A permitted]~~

1. If an owner of a business which involves the use of door-to-door commercial solicitation personally engages in door-to-door solicitation or a door-to-door solicitor engages in door-to-door commercial solicitation, the owner or door-to-door solicitor shall:

~~1.~~ (a) Conspicuously display ~~his or her~~ an identification badge that meets the requirements of this section at all times while engaged in door-to-door commercial solicitation.

~~2.~~ (b) 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.~~

2. For the purposes of this section, an identification badge must be a card not smaller than 2 inches by 3 1/2 inches which contains:

(a) The name and a photograph, not smaller than 1 inch by 1 inch, of the owner of a business which involves the use of door-to-door commercial solicitation or door-to-door solicitor, as applicable;

(b) The words "Door-to-door Solicitor"; and

(c) If the person is an agent or employee of an owner, the words "a Representative of" and the name of the owner or the owner's business for which the person acts as a door-to-door solicitor.

Sec. 18. ~~For a person~~ An owner of a business which involves the use of door-to-door commercial solicitation or a door-to-door solicitor shall not engage in door-to-door commercial solicitation except during the hours of 9 a.m. and 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 permitted~~ an owner of a business which involves the use of door-to-door commercial solicitation or a door-to-door solicitor to enter or remain upon any public or private premises if a "No Solicitation" or "No Trespassing" sign is prominently displayed in public view:

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

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

2. For ~~a person~~ an owner or door-to-door solicitor 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. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. The ~~Division~~ Commissioner may adopt such regulations as ~~fit~~ he or she 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.~~ Any violation of sections 3 to 24, inclusive, of this act constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 27.5. NRS 598.0999 is hereby amended to read as follows:

598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of

NRS 598.0903 to 598.0999, inclusive, upon a complaint brought by the Commissioner, the Director, the district attorney of any county of this State or the Attorney General shall forfeit and pay to the State General Fund a civil penalty of not more than \$10,000 for each violation. For the purpose of this section, the court issuing the order or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive.

2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, if the court finds that a person has willfully engaged in a deceptive trade practice, the Commissioner, the Director, the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed \$5,000 for each violation. The court in any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.

3. A natural person, firm, or any officer or managing agent of any corporation or association who knowingly and willfully engages in a deceptive trade practice:

(a) For the first offense, is guilty of a misdemeanor.

(b) For the second offense, is guilty of a gross misdemeanor.

(c) For the third and all subsequent offenses, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

↪ The court may require the natural person, firm, or officer or managing agent of the corporation or association to pay to the aggrieved party damages on all profits derived from the knowing and willful engagement in a deceptive trade practice and treble damages on all damages suffered by reason of the deceptive trade practice.

4. Any offense which occurred 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 3 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, 598.100 to 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to 598.787, inclusive, ~~for~~ 598.840 to 598.966, inclusive, or sections 3 to 24, inclusive, of this act, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Commissioner or the district attorney of any county may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

↪ The court may grant or deny the relief sought or may order other appropriate relief.

6. If a person violates any provision of NRS 228.500 to 228.640, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Attorney General may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

↪ The court may grant or deny the relief sought or may order other appropriate relief.

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Sec. 38. (Deleted by amendment.)

Sec. 39. (Deleted by amendment.)

Sec. 40. (Deleted by amendment.)

Sec. 41. (Deleted by amendment.)

Sec. 42. (Deleted by amendment.)

Sec. 43. (Deleted by amendment.)

Sec. 44. (Deleted by amendment.)

Sec. 45. (Deleted by amendment.)

Sec. 46. (Deleted by amendment.)

Sec. 46.2. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of county commissioners may:

(a) Require a license to operate a business which involves the use of door--to-door commercial solicitation; and

(b) Charge and collect a fee for the issuance and renewal of such a license.

2. As used in this section, "door-to-door commercial solicitation" has the meaning ascribed to it in section 4 of this act.

Sec. 46.4. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of an incorporated city may:

(a) Require a license to operate a business which involves the use of door-to-door commercial solicitation; and

(b) Charge and collect a fee for the issuance and renewal of such a license.

2. As used in this section, "door-to-door commercial solicitation" has the meaning ascribed to it in section 4 of this act.

Sec. 46.6. Chapter 269 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The town board or board of county commissioners may, for an unincorporated town:

(a) Require a license to operate a business which involves the use of door-to-door commercial solicitation; and

(b) Charge and collect a fee for the issuance and renewal of such a license.

2. As used in this section, "door-to-door commercial solicitation" has the meaning ascribed to it in section 4 of this act.

Sec. 46.8. NRS 354.5989 is hereby amended to read as follows:

354.5989 1. A local government shall not increase any fee for a business license or adopt a fee for a business license issued for revenue or regulation, or both, except as permitted by this section. This prohibition does not apply to fees:

(a) Imposed by hospitals, county airports, airport authorities, convention authorities, the Las Vegas Valley Water District or the Clark County Sanitation District;

(b) Imposed on public utilities for the privilege of doing business pursuant to a franchise;

(c) Imposed in compliance with the provisions of NRS 711.670 on video service providers for the privilege of doing business pursuant to chapter 711 of NRS;

(d) For business licenses which are calculated as a fraction or percentage of the gross revenue of the business;

(e) Imposed pursuant to NRS 244.348, 268.0973, 268.821 or 269.182; ~~for~~

(f) Authorized pursuant to section 46.2, 46.4 or 46.6 of this act; or

(g) Regulated pursuant to NRS 354.59881 to 354.59889, inclusive.

2. The amount of revenue the local government derives or is allowed to derive, whichever is greater, from all fees for business licenses except:

(a) The fees excluded by subsection 1, for the fiscal year ended on June 30, 1991; and

(b) The fees collected for a particular type of business during the immediately preceding fiscal year ending on June 30 that a local government will not collect in the next subsequent fiscal year,

↪ is the base from which the maximum allowable revenue from such fees must be calculated for the next subsequent fiscal year. To the base must be added the sum of the amounts respectively equal to the product of the base multiplied by the percentage increase in the population of the local

government added to the percentage increase in the Consumer Price Index for the year ending on December 31 next preceding the year for which the limit is being calculated. The amount so determined becomes the base for computing the allowed increase for each subsequent year.

3. A local government may not increase any fee for a business license which is calculated as a fraction or percentage of the gross revenue of the business if its total revenues from such fees have increased during the preceding fiscal year by more than the increase in the Consumer Price Index during that preceding calendar year. The provisions of this subsection do not apply to a fee:

(a) Imposed in compliance with the provisions of NRS 711.670 on video service providers for the privilege of doing business pursuant to chapter 711 of NRS;

(b) Imposed pursuant to NRS 244.348, 268.0973, 268.821 or 269.182; ~~for~~

(c) Authorized pursuant to section 46.2, 46.4 or 46.6 of this act; or

(d) Regulated pursuant to NRS 354.59881 to 354.59889, inclusive.

4. A local government may submit an application to increase its revenue from fees for business licenses beyond the amount allowable pursuant to this section to the Nevada Tax Commission, which may grant the application only if it finds that the rate of a business license of the local government is substantially below that of other local governments in the State.

5. The provisions of this section apply to a business license regardless of the fund to which the revenue from it is assigned. An ordinance or resolution enacted by a local government in violation of the provisions of this section is void.

6. As used in this section, "fee for a business license" does not include a tax imposed on the revenues from the rental of transient lodging.

Sec. 47. (Deleted by amendment.)

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 935 to Senate Bill No. 261 strikes most of the language related to the Consumer Affairs Division of the Department of Business and Industry. It offers definitions for noncommercial door-to-door solicitation. It also authorizes an unincorporated city or town, or governing bodies of any city or town, to require a license to do door-to-door commercial solicitation.

Amendment adopted.

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

UNFINISHED BUSINESS
APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Parks, Spearman and Hardy as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 228.

President Krolicki appointed Senators Parks, Segerblom and Hardy as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 410.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 36, 72, 170, 210, 217, 244, 266, 302, 312, 313, 321, 327, 442, 456, 508; Assembly Bills Nos. 9, 14, 18, 91, 131, 146, 176, 218, 246, 264, 286, 312, 363, 386, 391, 422, 440, 445, 453, 481, 482, 486.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Goicoechea, the privilege of the Floor of the Senate Chamber for this day was extended to Bonnie Gallagher, Frank Gallagher, Sally Gallagher, Tom Gallagher, Jr., Jason Geddes, Daniel J. Klaich and Scott G. Wasserman.

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to Jill Hardy and Donna Miller.

On request of Senator Kihuen, the privilege of the Floor of the Senate Chamber for this day was extended to Mike Wiley.

On request of Senator Roberson, the privilege of the Floor of the Senate Chamber for this day was extended to the students from Elise L. Wolff Elementary School: Ian Adison, Aireen Alvarez Danlag, Aaron Asare, Lisa Bacco, Joseph Baldauf, Tamra Baldauf, Joshua Banks, Bryce Becker, Aiden Benoualid, Christie Benoualid, Evan Benson, Jenna Berg, Paul Berg, Silva Bikarian, Ashton Boyer, Benjamin Boyle, Timothy Boyle, Benjamin Brimhall, Caleb Brimhall, Robert Burgess, Alexis Carman, Michael Carman, Katelyn Cariveau, Julia Castro, Austin Cates, Pristine Chan, Sailor Chapman, Ashley Coulter, Ben Crandall, Morgan Czyzyk, Parker Dahling, Danielle Damiani, Joseph Damiani, Darren Danlag, Hoa Dao, Nicolas DiGiacomo, Fiona Dimailig, Adam DiMaio, Darren DiMaio, Joseph DiSorbo, Whitney Donley, Lara Fisch, Liam Fitzpatrick, Craig Fjelsted, Lynsey Fjelsted, Damien Floratos, Dominick Floratos, Kameron Franklin, Brady Galbraith, Christine Gamble, Noah Gilliland, Caitlin Glatt, Jennifer Glatt, Eliana Goroc, Bennett Griffin, Connor Hadley, Jayla Haltom, Deborah Harbin, Elle Harris, Sherry Harris, Alexandra Hassett, Benjamin Hassett, Katrina Hassett, Izabella Ho, Katelyn Hunter, Laurie Hunter, Nao Ihara, Yuuma Ishii, Oriana Jennings, Noy Jerassi Etzion, Jacquez Johnson, Colleen Keene, James Kim, Holden Kimura, Patricia Kuljis, Haley Kurz, Ron Kurz, Baker Lake, Emily Lantz, Talmage Leishman, Andrew Marshall, Sarah Marshall, Charles Martin, Alaina Medina, Katrina Miranda, Corinna Moosman, Robert Morton, Ryan Mozingo, Sheri Mozingo, Jacob Murdy, Carson Murphy, Erika Nelson, Emma Noriega, Sabrina Noriega, Myrna Obregon, Karie O'Horo, Jacob Olsen-Campos, Paris Peterson, Jenessa Phillips, Madison Pierce, Deborah Polhemus, Kaitlyn Polhemus, Aidan

Quigley, Kristina Quigley, Mikayla Quintin, Mia Richardson, Brooke Ritchie, Jerry Ritchie, Karsyn Sadler, Mate'a Sahagun, Devin Salinas, Trent Schwartz, Regan Shane, Sahar Shora, William Siffermann Brown, Anthony Simmons, Sydney Slayton, Daniel Spangler, Aubrey Sundling, Stacy Sundling, Mariebelle Tabalba-Coulter, Kael Tejada, Kennedy Thomsen, Barbara Thorne, Shabnam Vott, Steve Vott, Jaden White, Janiffer Whittle and Morgan Whittle. Also to the students from Hummel Elementary School: Sierra Abanilla, Fredrica Archibold, Kyle Barbosa, Landon Boccadoro, Paul Busch, Benjamin Caudell, Isaiah Cottrell, Matthew Eager, Cole Frey, Tristan Garcia, Wesley Gonzalez, Steven Green, Steven Gutterman, Taryn Harris, Ryan Kelly, Lannah Lee, Noah Lee, Ethan Leeds, Aaron Lopez, Carroll Madeline, Isabella Mateo, Phoebe McCormick, Alston McDonald, Bell Morales, Agustino Morgan, Gina Purkett, Jordan Rae, Joshua Rawlins, Isiah Revis, Brett Rowland, Colby Rowland, Seth Ruggiero, Diego Ruiz, Cindy Sanchez, Cole Steffanich and Vincent Weisman.

On request of Senator Settelmeyer, the privilege of the Floor of the Senate Chamber for this day was extended to Riley Gruber.

On request of Senator Smith, the privilege of the Floor of the Senate Chamber for this day was extended to Greg Smith.

Senator Denis moved that the Senate adjourn until Saturday, June 1, 2013, at 11:30 a.m.

Motion carried.

Senate adjourned at 6:59 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate