

THE ONE HUNDRED AND FOURTH DAY

CARSON CITY (Saturday), May 16, 2015

Senate called to order at 3:41 p.m.

President pro Tempore Hardy presiding.

Roll called.

All present except Senators Denis and Smith, who were excused.

Prayer by Senator Becky Harris.

Dear Heavenly Father, we are so grateful to be gathered here, today, as friends and as colleagues. We ask You to touch our hearts and open our minds as we consider the business of the people of the grate State of Nevada; that we will be able to do what is best for them, that we will be able to come to consensus and to consider those who are most at risk and who are most vulnerable.

I am so grateful for the beautiful day that we have and ask Thee to bless us as we discuss and vote on important issues, that we will be able to leave as friends and return again as colleagues to continue on our important work.

We pray these things in the Name of Jesus Christ.

AMEN.

Pledge of Allegiance to the Flag.

By previous order of the Senate, the reading of the Journal is dispensed with, and the President pro Tempore and Secretary are authorized to make any necessary corrections and additions.

REPORTS OF COMMITTEES

Mr. President pro Tempore:

Your Committee on Education, to which was referred Assembly Bill No. 120, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BECKY HARRIS, *Chair*

Mr. President pro Tempore:

Your Committee on Finance, to which was re-referred Senate Bill No. 492, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BEN KIECKHEFER, *Chair*

Mr. President pro Tempore:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 364, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

PETE GOICOCHEA, *Chair*

Mr. President pro Tempore:

Your Committee on Legislative Operations and Elections, to which were referred Assembly Joint Resolutions Nos. 4, 8, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

PATRICIA FARLEY, *Chair*

Mr. President pro Tempore:

Your Committee on Revenue and Economic Development, to which was referred Assembly Bill No. 191, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL ROBERSON, *Chair*

Mr. President pro Tempore:

Your Senate Committee on Senate Parliamentary Rules and Procedures has approved the consideration of Amendment No. 821 to Senate Bill No. 374.

JAMES A. SETTELMAYER, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Roberson gave notice, per Senate Standing Rule No. 91, that on May 18, 2015, the Senate would begin to suspend necessary Standing and Constitutional Rules in order to accommodate the movement of bills and resolutions out of the Senate in a timely manner.

Senator Roberson moved that Assembly Bill No. 193 be taken from its position on the General File and be placed at the top of the General File.

Motion carried.

Senator Roberson moved to proceed to Order of Business No. 13, General File and Third Reading.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 193.

Bill read third time.

Remarks by Senators Brower, Segerblom and Ford.

SENATOR BROWER:

Assembly Bill No. 193 allows hearsay evidence in preliminary examinations and grand jury proceedings, but only in cases involving: 1) sexual offenses committed against children under the age of 16; 2) felony child abuse; and 3) felony domestic violence involving substantial bodily harm to the victim. A statement made by a witness at any time that is inconsistent with the testimony of the witness before the grand jury may be presented to the grand jury as evidence. The bill allows the use of audiovisual testimony at preliminary hearings and grand jury proceedings for witnesses who live more than 100 miles away under certain circumstances.

Lastly, if the district attorney or a peace officer does not provide adequate notice to a person whose indictment is being considered by a grand jury, that person must still be given the opportunity to testify before the grand jury and the grand jury must be instructed to deliberate again on all the charges contained in the indictment. This bill is effective on October 1, 2015.

SENATOR SEGERBLOM:

I rise in opposition to Assembly Bill No. 193. I can appreciate the desire to eliminate hearsay in these types of cases, but the reality is, the penalties involved in these types of cases are incredibly severe so the defendants are often looking at life imprisonment. These are the kinds of cases where you want to have the best opportunities to defend yourself, not the least opportunities. I do not think you should be picking these cases to deny hearsay. The testimony came out that the evidence in these cases is tested by motions, and before someone pleads, they know exactly what they are looking at in terms of potential evidence. If you do not have the witness testify for a grand jury, you are going to trial or pleading guilty, before you know what you are facing. This is an opportunity for the defendant to fully test the case against them.

The judges and justices of the peace contacted me and said this is going to result in people staying in the Clark County jail much longer because if hearsay is not allowed in a preliminary

hearing, you will not know what your case is and it will force a lot more trials. We all know that our jails in Clark County are overcrowded. It is incredibly expensive. The poorest of the poor are the ones who are sitting there. This is also bad for economic reasons: rich people can get out, poor people cannot. At the end of the day, while it is a well-intentioned idea, this is bad law. If we wanted to try it, we could sunset it, but to make a universal change from now on is something I oppose.

SENATOR FORD:

I also have to rise in opposition to this bill. As I indicated during the Committee hearing, the preliminary hearing is a very important gatekeeper toward a trial. To be sure, the gatekeeper function can be somewhat within the hands of the judge, but I think allowing hearsay under these circumstances not only prevents problems such as my colleague from District 3 has indicated, but additional problems in terms of the credibility of witnesses. During the Committee hearing, I contemplated trying to add an amendment that would have allowed, as they do at trial, for a method for testing the credibility of hearsay testimony. I was unable to get that amendment adopted by the prosecutors, and ultimately, we are here, today. It is important to note in addition to many defense attorneys out there across our State who have testified and sent us letters against this, justices of the peace and judges, who have to weigh this evidence, have also weighed in heavily against this. The arbiters of our judicial system have said this is a bad idea. I agree with them and advise my colleagues to vote against this bill.

SENATOR BROWER:

I would like to respond to a few comments and clarify a few things. Please rest assured that the judges have not weighed in heavily. Like many issues, some judges do not think this bill is perfect; others have no opinion and other like it. I would not agree the judges have weighed in heavily against this bill. Secondly, the rule we are seeking to adopt, is the rule in a majority of our states, in our federal system, in our military justice system. Third, and perhaps most importantly, this change has absolutely no constitutional implications whatsoever. This is a policy change the Legislature can make, and there are no constitutional issues at stake here. Finally, to clarify, this change would in no way, change a defendant's rights in a criminal trial. I urge your support.

Roll call on Assembly Bill No. 193:

YEAS—11.

NAYS—Atkinson, Ford, Kihuen, Manendo, Parks, Segerblom, Spearman, Woodhouse—8.

EXCUSED—Denis, Smith—2.

Assembly Bill No. 193 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Roberson moved that Assembly Bills Nos. 8, 11, 13, 16, 20, 23, 44, 45, 46, 47, 48, 66, 68, 94, 113, 114, 132, 138, 150, 183, 201, 244, 383, 428, 435, 462 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Brower moved that Senate Bills Nos. 291, 296 be taken from the Second Reading File and placed on the Secretary's desk.

Motion carried.

Senator Roberson moved that Senate Bill No. 374 be taken from the Secretary's desk and placed at the top of the General File.

Motion carried.

CONSENT CALENDAR

Assembly Bills Nos. 81, 158, 243, 305, 425.

Bills read by number.

Roll call on Assembly Bills Nos. 81, 158, 243, 305, 425:

YEAS—19.

NAYS—None.

EXCUSED—Denis, Smith—2.

Assembly Bills Nos. 81, 158, 243, 305, 425 having received a constitutional majority, Mr. President pro Tempore declared them passed.

Bills ordered transmitted to the Assembly.

SECOND READING AND AMENDMENT

Assembly Bill No. 17.

Bill read second time and ordered to third reading.

Assembly Bill No. 32.

Bill read second time and ordered to third reading.

Assembly Bill No. 57.

Bill read second time and ordered to third reading.

Assembly Bill No. 67.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 728.

SUMMARY—Makes various changes relating to driving, operating or being in actual physical control of a vehicle or vessel while under the influence of alcohol or a controlled substance or engaging in other prohibited conduct. (BDR 4-151)

AN ACT relating to public safety; revising provisions governing the admission into evidence of certain affidavits and declarations in certain criminal proceedings; specifying certain conditions under which a person is deemed not to be in actual physical control of a vehicle; revising provisions governing the administration of certain tests for the presence of alcohol, controlled substances and prohibited substances; revising provisions concerning the revocation of a license, permit or privilege to drive; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it unlawful for a person to drive, operate or be in actual physical control of a vehicle or vessel while under the influence of intoxicating liquor or a controlled substance, or both. (NRS 484C.110, 484C.120, 488.410) Sections 9.3 and 20 of this bill define the term "under the influence" for the purposes of existing law relating to driving, operating

or being in actual physical control of a vehicle or vessel while under the influence of intoxicating liquor or a controlled substance, or both. Section 9.5 of this bill provides that a person shall be deemed not to be in actual physical control of a vehicle if: (1) the person is asleep inside the vehicle; ~~and~~ (2) the person is not in the driver's seat of the vehicle; (3) the engine of the vehicle is not running; (4) the vehicle is lawfully parked ~~and~~; and (5) under the facts presented, it is evident that the person could not have driven the vehicle to the location while under the influence of intoxicating liquor, a controlled substance or a prohibited substance.

Existing law allows the affidavits and declarations of certain persons to be admitted as evidence during a criminal proceeding to prove certain facts relating to the testing of the blood, breath or urine of a defendant to determine the presence or concentration of alcohol or certain other substances. In a felony trial, if the defendant objects in writing to the admission of such affidavits or declarations, the court must not admit the affidavit or declaration into evidence and the prosecution may cause the witness to testify at trial concerning the information contained in the affidavit or declaration. A defendant in a misdemeanor trial, however, must also establish that: (1) there is a substantial and bona fide dispute between the prosecution and the defense regarding the facts in the declaration; and (2) it is in the best interests of justice that the witness who signed the affidavit or declaration be cross-examined. (NRS 50.315) The Nevada Supreme Court has held that the additional requirements imposed on a misdemeanor defendant under existing law violate a defendant's constitutional right to confront the witnesses against him or her and are therefore unconstitutional. (*City of Reno v. Howard*, 130 Nev. Adv. Op. 12, 318 P.3d 1063 (2014))

Section 1 of this bill eliminates the constitutional defect identified by the Nevada Supreme Court and provides instead that an affidavit or declaration must not be admitted as evidence during a misdemeanor trial to prove certain facts relating to the testing of the blood, breath or urine of a defendant to determine the presence or concentration of alcohol or certain other substances if, not later than 10 days before the date set for trial or such shorter time before the date set for trial as authorized by the court, the defendant objects in writing to the admission of the affidavit or declaration. Under section 1, if the affidavit or declaration is not admitted into evidence, the prosecution may produce the witness to provide testimony at trial concerning the information contained in the affidavit or declaration at trial.

Under existing law, a person who drives a vehicle in this State is deemed to have given his or her consent to an evidentiary test of his or her blood, urine, breath or other bodily substance to determine the concentration of alcohol in his or her blood or breath or to determine whether a controlled substance, chemical, poison, organic solvent or another prohibited substance is present. If a person who has thus given his or her "implied consent" to an evidentiary test refuses to submit to the test when directed to do so by a police officer who has reason to believe that the person was driving a vehicle

or operating a vessel while under the influence of alcohol or a controlled substance, existing law authorizes the police officer to direct that reasonable force be used to obtain a sample of blood from the person to be tested. (NRS 484C.160) The Nevada Supreme Court has held that the consent implied by a person's decision to drive in this State is not voluntary consent to an evidentiary blood test and, thus, existing laws that allow a police officer to obtain a blood sample from a person without a warrant and without voluntary consent are unconstitutional. (*Byars v. State*, 130 Nev. Adv. Op. No. 85, 336 P.3d 939 (2014))

Sections 12 and 14 of this bill eliminate the constitutional defect identified by the Nevada Supreme Court and provide instead that if a person refuses to submit to an evidentiary blood test at the request of a police officer: (1) the officer may apply for a warrant or other court order directing the use of reasonable force to obtain the blood sample; and (2) the person's driver's license must be revoked for a certain period. Section 14 further authorizes the revocation of a person's license, permit or privilege to drive if an evidentiary test reveals the presence of a detectable amount of a controlled substance or prohibited substance in his or her blood or urine for which he or she did not have a valid prescription or hold a valid registry identification card. Sections 15 and 16 of this bill make corresponding revisions to provisions of existing law which establish the procedure for effecting such a revocation and provide for an administrative hearing to challenge such a revocation. Section 25 of this bill makes comparable changes to existing law concerning the evidentiary tests of persons who operate or exercise actual physical control over vessels on the waters of this State. Section 5 of this bill makes comparable changes to existing law concerning evidentiary tests of persons who have actual physical possession of a firearm.

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

Section 1. NRS 50.315 is hereby amended to read as follows:

50.315 1. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration of a person is admissible in evidence in any criminal or administrative proceeding to prove:

(a) That the affiant or declarant has been certified by the Director of the Department of Public Safety as being competent to operate devices of a type certified by the Committee on Testing for Intoxication as accurate and reliable for testing a person's breath to determine the concentration of alcohol in his or her breath;

(b) The identity of a person from whom the affiant or declarant obtained a sample of breath; and

(c) That the affiant or declarant tested the sample using a device of a type so certified and that the device was functioning properly.

2. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration of a person who has examined a prepared chemical solution or gas that has been used in calibrating, or verifying the calibration of, a device

for testing another's breath to determine the concentration of alcohol in his or her breath is admissible in evidence in any criminal or administrative proceeding to prove:

- (a) The occupation of the affiant or declarant; and
- (b) That the solution or gas has the chemical composition necessary for use in accurately calibrating, or verifying the calibration of, the device.

3. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration of a person who calibrates a device for testing another's breath to determine the concentration of alcohol in his or her breath is admissible in evidence in any criminal or administrative proceeding to prove:

- (a) The occupation of the affiant or declarant;
- (b) That on a specified date the affiant or declarant calibrated the device at a named law enforcement agency by using the procedures and equipment prescribed in the regulations of the Committee on Testing for Intoxication;
- (c) That the calibration was performed within the period required by the Committee's regulations; and
- (d) Upon completing the calibration of the device, it was operating properly.

4. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration made under the penalty of perjury of a person who withdraws a sample of blood from another for analysis by an expert as set forth in NRS 50.320 is admissible in any criminal or administrative proceeding to prove:

- (a) The occupation of the affiant or declarant;
- (b) The identity of the person from whom the affiant or declarant withdrew the sample;
- (c) The fact that the affiant or declarant kept the sample in his or her sole custody or control and in substantially the same condition as when he or she first obtained it until delivering it to another; and
- (d) The identity of the person to whom the affiant or declarant delivered it.

5. Except as otherwise provided in subsections 6 and 7, the affidavit or declaration of a person who receives from another a sample of blood or urine or other tangible evidence that is alleged to contain alcohol or a controlled substance, chemical, poison, organic solvent or another prohibited substance may be admitted in any criminal or civil or administrative proceeding to prove:

- (a) The occupation of the affiant or declarant;
- (b) The fact that the affiant or declarant received a sample or other evidence from another person and kept it in his or her sole custody or control in substantially the same condition as when he or she first received it until delivering it to another; and
- (c) The identity of the person to whom the affiant or declarant delivered it.

6. If, ~~at or before the time of trial,~~ *not later than 10 days before the date set for trial or such shorter time before the date set for trial as authorized by the court,* the defendant ~~establishes that:~~

~~—(a) There is a substantial and bona fide dispute regarding the facts in the affidavit or declaration; and~~

~~—(b) It is in the best interests of justice that the witness who signed the affidavit or declaration be cross examined,]~~ *objects in writing to admitting into evidence the affidavit or declaration,*

~~[→]~~ *the court shall not admit the affidavit or declaration into evidence and may order the prosecution to produce the witness and may continue the trial for any time the court deems reasonably necessary to receive such testimony. The time within which a trial is required is extended by the time of the continuance.*

7. During any trial in which the defendant has been accused of committing a felony, the defendant may object in writing to admitting into evidence an affidavit or declaration described in this section. If the defendant makes such an objection, the court shall not admit the affidavit or declaration into evidence and the prosecution may cause the person to testify to any information contained in the affidavit or declaration.

8. The Committee on Testing for Intoxication shall adopt regulations prescribing the form of the affidavits and declarations described in this section.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 202.257 is hereby amended to read as follows:

202.257 1. It is unlawful for a person who:

(a) Has a concentration of alcohol of 0.10 or more in his or her blood or breath; or

(b) Is under the influence of any controlled substance, or is under the combined influence of intoxicating liquor and a controlled substance, or any person who inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him or her incapable of safely exercising actual physical control of a firearm,

→ to have in his or her actual physical possession any firearm. This prohibition does not apply to the actual physical possession of a firearm by a person who was within the person's personal residence and had the firearm in his or her possession solely for self-defense.

2. Any evidentiary test to determine whether a person has violated the provisions of subsection 1 must be administered in the same manner as an evidentiary test that is administered pursuant to NRS 484C.160 to 484C.250, inclusive, except that submission to the evidentiary test is required of any person who is ~~directed~~ *requested* by a police officer to submit to the test. If a person to be tested fails to submit to a required test as ~~directed~~ *requested* by a police officer, the officer may ~~direct~~ *apply for a warrant or court order directing* that reasonable force be used to the extent necessary to obtain the samples of blood from the person to be tested, if the officer has

reasonable cause to believe that the person to be tested was in violation of this section.

3. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.

4. A firearm is subject to forfeiture pursuant to NRS 179.1156 to 179.119, inclusive, only if, during the violation of subsection 1, the firearm is brandished, aimed or otherwise handled by the person in a manner which endangered others.

5. As used in this section, the phrase "concentration of alcohol of 0.10 or more in his or her blood or breath" means 0.10 gram or more of alcohol per 100 milliliters of the blood of a person or per 210 liters of his or her breath.

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. Chapter 484C of NRS is hereby amended by adding thereto the provisions set forth as sections 9.3 and 9.5 of this act.

Sec. 9.3. *"Under the influence" means impaired to a degree that renders a person incapable of safely driving or exercising actual physical control of a vehicle.*

Sec. 9.5. *For the purposes of this chapter, a person shall be deemed not to be in actual physical control of a vehicle if:*

1. *The person is asleep inside the vehicle; ~~and~~*

2. *The person is not in the driver's seat of the vehicle;*

3. *The engine of the vehicle is not running;*

4. *The vehicle is lawfully parked ~~+~~; and*

5. *Under the facts presented, it is evident that the person could not have driven the vehicle to the location while under the influence of intoxicating liquor, a controlled substance or a prohibited substance.*

Sec. 10. NRS 484C.010 is hereby amended to read as follows:

484C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 484C.020 to 484C.100, inclusive, and section 9.3 of this act have the meanings ascribed to them in those sections.

Sec. 11. NRS 484C.150 is hereby amended to read as follows:

484C.150 1. Any person who drives or is in actual physical control of a vehicle on a highway or on premises to which the public has access shall be deemed to have given his or her consent to a preliminary test of his or her breath to determine the concentration of alcohol in his or her breath when the test is administered at the ~~direction~~ request of a police officer at the scene of a vehicle accident or collision or where the police officer stops a vehicle, if the officer has reasonable grounds to believe that the person to be tested was:

(a) Driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance; or

(b) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430.

2. If the person fails to submit to the test, the officer shall ~~seize~~ :

(a) *Seize* the license or permit of the person to drive as provided in NRS 484C.220 ; and

(b) *If reasonable grounds otherwise exist*, arrest the person and take him or her to a convenient place for the administration of a reasonably available evidentiary test under NRS 484C.160.

3. The result of the preliminary test must not be used in any criminal action, except to show there were reasonable grounds to make an arrest.

Sec. 12. NRS 484C.160 is hereby amended to read as follows:

484C.160 1. Except as otherwise provided in subsections ~~{3 and 4,}~~ 4 and 5, any person who drives or is in actual physical control of a vehicle on a highway or on premises to which the public has access shall be deemed to have given his or her consent to an evidentiary test of his or her blood, urine, breath or other bodily substance to determine the concentration of alcohol in his or her blood or breath or to determine whether a controlled substance, chemical, poison, organic solvent or another prohibited substance is present, if such a test is administered at the ~~direction~~ request of a police officer having reasonable grounds to believe that the person to be tested was:

(a) Driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance ~~{;}~~ or *with a prohibited substance in his or her blood or urine; or*

(b) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430.

2. *A police officer who requests that a person submit to a test pursuant to subsection 1 shall inform the person that his or her license, permit or privilege to drive will be revoked if he or she fails to submit to the test.*

3. If the person to be tested pursuant to subsection 1 is dead or unconscious, the officer shall direct that samples of blood from the person be tested.

~~{3}~~ 4. Any person who is afflicted with hemophilia or with a heart condition requiring the use of an anticoagulant as determined by a physician is exempt from any blood test which may be required pursuant to this section but must, when appropriate pursuant to the provisions of this section, be required to submit to a breath or urine test.

~~{4}~~ 5. If the concentration of alcohol in the blood or breath of the person to be tested is in issue:

(a) Except as otherwise provided in this section, the person may refuse to submit to a blood test if means are reasonably available to perform a breath test.

(b) The person may request a blood test, but if means are reasonably available to perform a breath test when the blood test is requested, and the person is subsequently convicted, the person must pay for the cost of the blood test, including the fees and expenses of witnesses *whose testimony* in

court ~~[]~~ or an administrative hearing is necessary because of the use of the blood test. The expenses of such a witness may be assessed at an hourly rate of not less than:

- (1) Fifty dollars for travel to and from the place of the proceeding; and
- (2) One hundred dollars for giving or waiting to give testimony.

(c) ~~[A police officer may direct the person to submit to a blood test if the officer has reasonable grounds to believe that the person:~~

~~—(1) Caused death or substantial bodily harm to another person as a result of driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or as a result of engaging in any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430; or~~

~~—(2) Has been convicted within the previous 7 years of:~~

~~—(I) A violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425 or a law of another jurisdiction that prohibits the same or similar conduct; or~~

~~—(II) Any other offense in this State or another jurisdiction in which death or substantial bodily harm to another person resulted from conduct prohibited by a law set forth in sub-subparagraph (I).~~

~~—5.] Except as otherwise provided in NRS 484C.200, not more than three samples of the person's blood or breath may be taken during the 5-hour period immediately following the time of the initial arrest.~~

6. If the presence of a controlled substance, chemical, poison, organic solvent or another prohibited substance in the blood or urine of the person is in issue, the officer may ~~[direct]~~ request that the person ~~[to]~~ submit to a blood or urine test, or both. ~~[, in addition to the breath test.~~

~~—6.] 7. Except as otherwise provided in subsections [3 and 5,] 4 and 6, a police officer shall not [direct] request that a person [to] submit to a urine test.~~

~~[7.] 8. If a person to be tested fails to submit to a required test as [directed] requested by a police officer pursuant to this section and the officer has reasonable grounds to believe that the person to be tested was:~~

(a) Driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance ~~[]~~ or with a prohibited substance in his or her blood or urine; or

(b) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430,

↪ the officer may ~~[direct]~~ apply for a warrant or court order directing that reasonable force be used to the extent necessary to obtain samples of blood from the person to be tested. ~~[Not more than three such samples may be taken during the 5-hour period immediately following the time of the initial arrest. In such a circumstance, the officer is not required to provide the person with a choice of tests for determining the concentration of alcohol or presence of a controlled substance or another prohibited substance in his or her blood.~~

~~—8.]~~ 9. If a person who is less than 18 years of age is ~~directed~~ requested to submit to an evidentiary test pursuant to this section, the officer shall, before testing the person, make a reasonable attempt to notify the parent, guardian or custodian of the person, if known.

Sec. 13. NRS 484C.200 is hereby amended to read as follows:

484C.200 1. Except as otherwise provided in subsection 2, an evidentiary test of breath to determine the concentration of alcohol in a person's breath may be used to establish that concentration only if two consecutive samples of the person's breath are taken and:

(a) The difference between the concentration of alcohol in the person's breath indicated by the two samples is less than or equal to 0.02;

(b) If the provisions of paragraph (a) do not apply, a third evidentiary test of breath is administered and the difference between the concentration of alcohol in the person's breath indicated by the third sample and one of the first two samples is less than or equal to 0.02; or

(c) If the provisions of paragraphs (a) and (b) do not apply, a fourth evidentiary test is administered. Except as otherwise provided in NRS 484C.160, the fourth evidentiary test must be a blood test.

2. If the person fails to provide the second or third consecutive sample, or to submit to the fourth evidentiary test, the results of the first test may be used alone as evidence of the concentration of alcohol in the person's breath. If for some other reason a second, third or fourth sample is not obtained, the results of the first test may be used with all other evidence presented to establish the concentration.

3. If a person refuses or otherwise fails to provide a second or third consecutive sample or submit to a fourth evidentiary test, ~~a police officer may direct that reasonable force be used to obtain a sample or conduct a test pursuant to~~ such refusal or failure constitutes a failure to submit to a required test as provided in NRS 484C.160.

Sec. 14. NRS 484C.210 is hereby amended to read as follows:

484C.210 1. *If a person fails to submit to an evidentiary test as requested by a police officer pursuant to NRS 484C.160, the license, permit or privilege to drive of the person must be revoked as provided in NRS 484C.220, and the person is not eligible for a license, permit or privilege to drive for a period of:*

(a) *One year; or*

(b) *Three years, if the license, permit or privilege to drive of the person has been revoked during the immediately preceding 7 years for failure to submit to an evidentiary test.*

2. If the result of a test given under NRS 484C.150 or 484C.160 shows that a person had a concentration of alcohol of 0.08 or more in his or her blood or breath *or a detectable amount of a controlled substance or prohibited substance in his or her blood or urine for which he or she did not have a valid prescription, as defined in NRS 453.128, or hold a valid registry identification card, as defined in NRS 453A.140*, at the time of the test, the

license, permit or privilege of the person to drive must be revoked as provided in NRS 484C.220 and the person is not eligible for a license, permit or privilege for a period of 90 days.

~~{2.}~~ 3. If a revocation of a person's license, permit or privilege to drive under NRS 62E.640 or 483.460 follows a revocation under subsection ~~{1}~~ 2 which was based on the person having a concentration of alcohol of 0.08 or more in his or her blood or breath, the Department shall cancel the revocation under that subsection and give the person credit for any period during which the person was not eligible for a license, permit or privilege.

~~{3.}~~ 4. Periods of ineligibility for a license, permit or privilege to drive which are imposed pursuant to this section must run consecutively.

Sec. 15. NRS 484C.220 is hereby amended to read as follows:

484C.220 1. As agent for the Department, the officer who *requested that a test be given pursuant to NRS 484C.150 or 484C.160 or who* obtained the result of a test given pursuant to NRS 484C.150 or 484C.160 shall immediately serve an order of revocation of the license, permit or privilege to drive on a person who *failed to submit to a test requested by the police officer pursuant to NRS 484C.150 or 484C.160 or who* has a concentration of alcohol of 0.08 or more in his or her blood or breath or has a detectable amount of a *controlled substance or* prohibited substance in his or her blood or urine ~~{}~~ *for which he or she did not have a valid prescription, as defined in NRS 453.128, or hold a valid registry identification card, as defined in NRS 453A.140*, if that person is present, and shall seize the license or permit to drive of the person. The officer shall then , *unless the information is expressly set forth in the order of revocation*, advise the person of his or her right to administrative and judicial review of the revocation pursuant to NRS 484C.230 and, except as otherwise provided in this subsection, that the person has a right to request a temporary license. If the person currently is driving with a temporary license that was issued pursuant to this section or NRS 484C.230, the person is not entitled to request an additional temporary license pursuant to this section or NRS 484C.230, and the order of revocation issued by the officer must revoke the temporary license that was previously issued. If the person is entitled to request a temporary license, the officer shall issue the person a temporary license on a form approved by the Department if the person requests one, which is effective for only 7 days including the date of issuance. The officer shall immediately transmit the person's license or permit to the Department along with the written certificate required by subsection 2.

2. When a police officer has served an order of revocation of a driver's license, permit or privilege on a person pursuant to subsection 1, or later receives the result of an evidentiary test which indicates that a person, not then present, had a concentration of alcohol of 0.08 or more in his or her blood or breath or had a detectable amount of a *controlled substance or* prohibited substance in his or her blood or urine ~~{}~~ *for which he or she did not have a valid prescription, as defined in NRS 453.128, or hold a valid*

registry identification card, as defined in NRS 453A.140, the officer shall immediately prepare and transmit to the Department, together with the seized license or permit and a copy of the result of the test, *if any*, a written certificate that the officer had reasonable grounds to believe that the person had been driving or in actual physical control of a vehicle ~~[with]~~ :

(a) *With* a concentration of alcohol of 0.08 or more in his or her blood or breath or with a detectable amount of a *controlled substance* or prohibited substance in his or her blood or urine ~~[]~~ *for which he or she did not have a valid prescription, as defined in NRS 453.128, or hold a valid registry identification card, as defined in NRS 453A.140, as determined by a chemical test [] ; or*

(b) *While under the influence of intoxicating liquor or a controlled substance or with a prohibited substance in his or her blood or urine and the person refused to submit to a required evidentiary test.*

➤ The certificate must also indicate whether the officer served an order of revocation on the person and whether the officer issued the person a temporary license.

3. The Department, upon receipt of such a certificate for which an order of revocation has not been served, after examining the certificate and copy of the result of the chemical test, if any, and finding that revocation is proper, shall issue an order revoking the person's license, permit or privilege to drive by mailing the order to the person at the person's last known address. The order must indicate the grounds for the revocation and the period during which the person is not eligible for a license, permit or privilege to drive and state that the person has a right to administrative and judicial review of the revocation and to have a temporary license. The order of revocation becomes effective 5 days after mailing.

4. Notice of an order of revocation and notice of the affirmation of a prior order of revocation or the cancellation of a temporary license provided in NRS 484C.230 is sufficient if it is mailed to the person's last known address as shown by any application for a license. The date of mailing may be proved by the certificate of any officer or employee of the Department, specifying the time of mailing the notice. The notice is presumed to have been received upon the expiration of 5 days after it is deposited, postage prepaid, in the United States mail.

Sec. 16. NRS 484C.230 is hereby amended to read as follows:

484C.230 1. At any time while a person is not eligible for a license, permit or privilege to drive following an order of revocation issued pursuant to NRS 484C.220, the person may request in writing a hearing by the Department to review the order of revocation, but the person is only entitled to one hearing. The hearing must be conducted ~~[within 15 days after receipt of the request, or]~~ as soon ~~[thereafter]~~ as is practicable ~~[, in the county where the requester resides unless the parties agree otherwise.]~~ at any location, if the hearing officer permits each party and witness to attend the hearing by telephone, videoconference or other electronic means. The Director or agent

of the Director may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the requester. Unless the person is ineligible for a temporary license pursuant to NRS 484C.220, the Department shall issue an additional temporary license for a period which is sufficient to complete the administrative review.

2. The scope of the hearing must be limited to the issue of whether the person ~~is~~:

(a) Failed to submit to a required test provided for in NRS 484C.150 or 484C.160; or

(b) At the time of the test, had a concentration of alcohol of 0.08 or more in his or her blood or breath or a detectable amount of a *controlled substance* or prohibited substance in his or her blood or urine ~~is~~ for which he or she did not have a valid prescription, as defined in NRS 453.128, or hold a valid registry identification card, as defined in NRS 453A.140.

➔ Upon an affirmative finding on ~~this~~ either issue, the Department shall affirm the order of revocation. Otherwise, the order of revocation must be rescinded.

3. If, after the hearing, the order of revocation is affirmed, the person whose license, privilege or permit has been revoked is entitled to a review of the same issues in district court in the same manner as provided by chapter 233B of NRS. The court shall notify the Department upon the issuance of a stay, and the Department shall issue an additional temporary license for a period which is sufficient to complete the review.

4. If a hearing officer grants a continuance of a hearing at the request of the person whose license was revoked, or a court does so after issuing a stay of the revocation, the officer or court shall notify the Department, and the Department shall cancel the temporary license and notify the holder by mailing the order of cancellation to the person's last known address.

Sec. 17. NRS 484C.240 is hereby amended to read as follows:

484C.240 1. If a person refuses to submit to a required chemical test provided for in NRS 484C.150 or 484C.160, evidence of that refusal is admissible in any criminal or administrative action arising out of acts alleged to have been committed while the person was:

(a) Driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance ~~is~~ or *with a prohibited substance in his or her blood or urine; or*

(b) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430.

2. Except as otherwise provided in subsection 3 of NRS 484C.150, a court or hearing officer may not exclude evidence of a required test or failure to submit to such a test if the police officer or other person substantially complied with the provisions of NRS 484C.150 to 484C.250, inclusive, and 484C.600 to 484C.640, inclusive.

3. If a person submits to a chemical test provided for in NRS 484C.150 or 484C.160, full information concerning that test must be made available, upon request of the person, to the person or his or her attorney.

4. Evidence of a required test is not admissible in a criminal or administrative proceeding unless it is shown by documentary or other evidence that the law enforcement agency calibrated the breath-testing device and otherwise maintained it as required by the regulations of the Committee on Testing for Intoxication.

Sec. 18. NRS 484C.250 is hereby amended to read as follows:

484C.250 1. The results of any blood test administered under the provisions of NRS 484C.160 or 484C.180 are not admissible in any hearing or criminal action arising out of acts alleged to have been committed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance *or with a prohibited substance in his or her blood or urine* or who was engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130 or 484C.430 unless:

(a) The blood tested was withdrawn by a person, other than an arresting officer, who:

(1) Is a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, registered nurse, licensed practical nurse, advanced emergency medical technician, paramedic or a phlebotomist, technician, technologist or assistant employed in a medical laboratory; or

(2) Has special knowledge, skill, experience, training and education in withdrawing blood in a medically acceptable manner, including, without limitation, a person qualified as an expert on that subject in a court of competent jurisdiction or a person who has completed a course of instruction that qualifies him or her to take an examination in phlebotomy that is administered by the American Medical Technologists or the American Society for Clinical Pathology; and

(b) The test was performed on whole blood, except if the sample was clotted when it was received by the laboratory, the test may be performed on blood serum or plasma.

2. The limitation contained in paragraph (a) of subsection 1 does not apply to the taking of a chemical test of the urine, breath or other bodily substance.

3. No person listed in paragraph (a) of subsection 1 incurs any civil or criminal liability as a result of the administering of a blood test when requested by a police officer or the person to be tested to administer the test.

Sec. 19. (Deleted by amendment.)

Sec. 20. NRS 488.035 is hereby amended to read as follows:

488.035 As used in this chapter, unless the context otherwise requires:

1. "Aquatic invasive species" means an aquatic species which is exotic or not native to this State and which the Commission has determined to be

detrimental to aquatic life, water resources or infrastructure for providing water in this State.

2. "Aquatic plant material" means aquatic plants or parts of plants that are dependent on an aquatic environment to survive.

3. "Commission" means the Board of Wildlife Commissioners.

4. "Conveyance" means a motor vehicle, trailer or any other equipment used to transport a vessel or containers or devices used to haul water on a vessel that may contain or carry an aquatic invasive species or aquatic plant material.

5. "Decontaminate" means eliminate any aquatic invasive species on a vessel or conveyance in a manner specified by the Commission which may include, without limitation, washing the vessel or conveyance, draining the water in the vessel or conveyance, drying the vessel or conveyance or chemically, thermally or otherwise treating the vessel or conveyance.

6. "Department" means the Department of Wildlife.

7. "Flat wake" means the condition of the water close astern a moving vessel that results in a flat wave disturbance.

8. "Interstate waters of this State" means waters forming the boundary between the State of Nevada and an adjoining state.

9. "Legal owner" means a secured party under a security agreement relating to a vessel or a renter or lessor of a vessel to the State or any political subdivision of the State under a lease or an agreement to lease and sell or to rent and purchase which grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

10. "Motorboat" means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion.

11. "Operate" means to navigate or otherwise use a motorboat or a vessel.

12. "Owner" means:

(a) A person having all the incidents of ownership, including the legal title of a vessel, whether or not he or she lends, rents or pledges the vessel; and

(b) A debtor under a security agreement relating to a vessel.

↳ "Owner" does not include a person defined as a "legal owner" under subsection 9.

13. "Prohibited substance" has the meaning ascribed to it in NRS 484C.080.

14. "Registered owner" means the person registered by the Commission as the owner of a vessel.

15. *"Under the influence" means impaired to a degree that renders a person incapable of safely operating or exercising actual physical control of a vessel.*

16. A vessel is "under way" if it is adrift, making way or being propelled, and is not aground, made fast to the shore, or tied or made fast to a dock or mooring.

~~{16.}~~ 17. "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

~~{17.}~~ 18. "Waters of this State" means any waters within the territorial limits of this State.

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. NRS 488.450 is hereby amended to read as follows:

488.450 1. Any person who operates or is in actual physical control of a vessel under power or sail on the waters of this State shall be deemed to have given consent to a preliminary test of his or her breath to determine the concentration of alcohol in his or her breath when the test is administered at the ~~{direction}~~ request of a peace officer after a vessel accident or collision or where an officer stops a vessel, if the officer has reasonable grounds to believe that the person to be tested was:

(a) Operating or in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance; or

(b) Engaging in any other conduct prohibited by NRS 488.410, 488.420 or 488.425.

2. If the person fails to submit to the test, the officer shall, *if reasonable grounds otherwise exist*, arrest the person and take him or her to a convenient place for the administration of a reasonably available evidentiary test under NRS 488.460.

3. The result of the preliminary test must not be used in any criminal action, except to show there were reasonable grounds to make an arrest.

Sec. 25. NRS 488.460 is hereby amended to read as follows:

488.460 1. Except as otherwise provided in subsections 3 and 4, a person who operates or is in actual physical control of a vessel under power or sail on the waters of this State shall be deemed to have given consent to an evidentiary test of his or her blood, urine, breath or other bodily substance to determine the concentration of alcohol in his or her blood or breath or to determine whether a controlled substance, chemical, poison, organic solvent or another prohibited substance is present, if such a test is administered at the ~~{direction}~~ request of a peace officer having reasonable grounds to believe that the person to be tested was:

(a) Operating or in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance ~~{;}~~ or *with a prohibited substance in his or her blood or urine; or*

(b) Engaging in any other conduct prohibited by NRS 488.410, 488.420 or 488.425.

2. If the person to be tested pursuant to subsection 1 is dead or unconscious, the officer shall direct that samples of blood from the person be tested.

3. Any person who is afflicted with hemophilia or with a heart condition requiring the use of an anticoagulant as determined by a physician is exempt from any blood test which may be required pursuant to this section, but must, when appropriate pursuant to the provisions of this section, be required to submit to a breath or urine test.

4. If the concentration of alcohol of the blood or breath of the person to be tested is in issue:

(a) Except as otherwise provided in this section, the person may refuse to submit to a blood test if means are reasonably available to perform a breath test.

(b) The person may request a blood test, but if means are reasonably available to perform a breath test when the blood test is requested, and the person is subsequently convicted, the person must pay for the cost of the blood test, including the fees and expenses of witnesses *whose testimony in court* ~~is necessary because of the use of the blood test. The expenses of such a witness may be assessed at an hourly rate of not less than:~~

(1) Fifty dollars for travel to and from the place of the proceeding; and

(2) One hundred dollars for giving or waiting to give testimony.

(c) ~~A peace officer may direct the person to submit to a blood test if the officer has reasonable grounds to believe that the person:~~

~~(1) Caused death or substantial bodily harm to another person as a result of operating or being in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance or as a result of engaging in any other conduct prohibited by NRS 488.410, 488.420 or 488.425; or~~

~~(2) Has been convicted within the previous 7 years of:~~

~~(I) A violation of NRS 484C.110, 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425 or a law of another jurisdiction that prohibits the same or similar conduct; or~~

~~(II) Any other offense in this State or another jurisdiction in which death or substantial bodily harm to another person resulted from conduct prohibited by a law set forth in sub-subparagraph (I).] Except as otherwise provided in NRS 488.470, not more than three samples of the person's blood or breath may be taken during the 5-hour period immediately following the time of the initial arrest.~~

5. If the presence of a controlled substance, chemical, poison, organic solvent or another prohibited substance in the blood or urine of the person is in issue, the officer may ~~direct~~ request that the person ~~to~~ submit to a blood or urine test, or both. ~~[in addition to the breath test.]~~

6. Except as otherwise provided in subsections 3 and 5, a peace officer shall not ~~direct~~ request that a person ~~to~~ submit to a urine test.

7. If a person to be tested fails to submit to a required test as ~~directed~~ requested by a peace officer pursuant to this section and the officer has reasonable grounds to believe that the person to be tested was:

(a) Operating or in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance ~~};~~ or *with a prohibited substance in his or her blood or urine; or*

(b) Engaging in any other conduct prohibited by NRS 488.410, 488.420 or 488.425,

→ the officer may ~~direct~~ *apply for a warrant or court order directing* that reasonable force be used to the extent necessary to obtain samples of blood from the person to be tested. ~~[Not more than three such samples may be taken during the 5-hour period immediately following the time of the initial arrest. In such a circumstance, the officer is not required to provide the person with a choice of tests for determining the alcoholic content or presence of a controlled substance or another prohibited substance in the person's blood.]~~

8. *If a person who is less than 18 years of age is requested to submit to an evidentiary test pursuant to this section, the officer shall, before testing the person, make a reasonable attempt to notify the parent, guardian or custodian of the person, if known.*

Sec. 26. NRS 488.470 is hereby amended to read as follows:

488.470 1. Except as otherwise provided in subsection 2, an evidentiary test of breath to determine the concentration of alcohol in a person's breath may be used to establish that concentration only if two consecutive samples of the person's breath are taken and:

(a) The difference between the concentration of alcohol in the person's breath indicated by the two samples is less than or equal to 0.02;

(b) If the provisions of paragraph (a) do not apply, a third evidentiary test of breath is administered and the difference between the concentration of alcohol in the person's breath indicated by the third sample and one of the first two samples is less than or equal to 0.02; or

(c) If the provisions of paragraphs (a) and (b) do not apply, a fourth evidentiary test is administered. Except as otherwise provided in NRS 488.460, the fourth evidentiary test must be a blood test.

2. If the person fails to provide the second or third consecutive sample, or to submit to the fourth evidentiary test, the results of the first test may be used alone as evidence of the concentration of alcohol in the person's breath. If for some other reason a second, third or fourth sample is not obtained, the results of the first test may be used with all other evidence presented to establish the concentration.

3. If a person refuses or otherwise fails to provide a second or third consecutive sample or submit to a fourth evidentiary test, ~~[a peace officer may direct that reasonable force be used to obtain a sample or conduct a test pursuant to]~~ *such refusal or failure constitutes a failure to submit to a required evidentiary test as provided in NRS 488.460.*

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. NRS 488.500 is hereby amended to read as follows:

488.500 1. The results of any blood test administered under the provisions of NRS 488.460 or 488.490 are not admissible in any criminal action arising out of acts alleged to have been committed by a person who was operating or in actual physical control of a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance or *with a prohibited substance in his or her blood or urine* or who was engaging in any other conduct prohibited by NRS 488.410, 488.420 or 488.425 unless:

(a) The blood tested was withdrawn by a person, other than an arresting officer, who:

(1) Is a physician, registered nurse, licensed practical nurse, advanced emergency medical technician, paramedic or a phlebotomist, technician, technologist or assistant employed in a medical laboratory; or

(2) Has special knowledge, skill, experience, training and education in withdrawing blood in a medically acceptable manner, including, without limitation, a person qualified as an expert on that subject in a court of competent jurisdiction or a person who has completed a course of instruction that qualifies him or her to take an examination in phlebotomy that is administered by the American Medical Technologists or the American Society for Clinical Pathology; and

(b) The test was performed on whole blood, except if the sample was clotted when it was received by the laboratory, the test may be performed on blood serum or plasma.

2. The limitation contained in paragraph (a) of subsection 1 does not apply to the taking of a chemical test of the urine, breath or other bodily substance.

3. No person listed in paragraph (a) of subsection 1 incurs any civil or criminal liability as a result of the administering of a blood test when requested by a peace officer or the person to be tested to administer the test.

Sec. 30. (Deleted by amendment.)

Sec. 31. 1. This section and sections 2 to 30, inclusive, of this act become effective upon passage and approval.

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

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

Amendment No. 728 to Assembly Bill No. 67 adds clarifying language to section 9.5 of the bill to provide that, if a person is found asleep inside a legally parked vehicle but the person is not in the driver's seat, the engine is not running, and under the facts presented, it is evident that the person could not have driven the vehicle to the location while under the influence, the person shall not be deemed to be in "actual physical control" of the vehicle.

Amendment adopted.

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

Assembly Bill No. 86.

Bill read second time and ordered to third reading.

Assembly Bill No. 92.

Bill read second time and ordered to third reading.

Assembly Bill No. 107.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 736.

SUMMARY—Revises provisions relating to reports of accountability for public schools. (BDR 34-407)

AN ACT relating to education; requiring reports of accountability for public schools to include certain information regarding pupils who qualify for free or reduced-price lunches pursuant to federal law; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Education, the boards of trustees of school districts and the sponsors of charter schools to prepare annual reports of accountability that contain certain information regarding public schools and pupils enrolled in public schools. (NRS 385.347, 385.3572) Section 1.2 of this bill requires the annual report of accountability prepared by each school district and the sponsor of each charter school to include: (1) the number and percentage of pupils who are eligible for free or reduced-price breakfasts pursuant to federal law; (2) the number and percentage of pupils who are eligible for free or reduced-price lunches pursuant to federal law; (3) the number and percentage of pupils who are eligible for free or reduced-price breakfasts and who receive free and reduced-price breakfasts; (4) the number and percentage of pupils who are eligible for free or reduced-price lunches and who receive free and reduced-price lunches; (5) a comparison of the achievement and proficiency of pupils, reported separately by race, ~~sex~~ and ethnicity, who are eligible for free or reduced-price breakfasts, pupils who receive free and reduced-price breakfasts, pupils who are eligible for free or reduced-price lunches, pupils who receive free and reduced-price lunches and pupils who are not eligible for free or reduced-price breakfasts or lunches; and (6) a comparison of pupils, reported separately by race, ~~sex~~ and ethnicity, who are eligible for free or reduced-price breakfasts, pupils who receive free and reduced-price breakfasts, pupils who are eligible for free and reduced-price lunches and pupils who receive free and reduced-price lunches in certain areas for which data is collected. Section 1.2 also authorizes the State Board of Education to adopt any regulations necessary to carry out the provisions of this bill. Section 1.4 of this bill requires the annual report of accountability prepared by the State Board to include the same information for the State as a whole.

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

Section 1. Chapter 385 of NRS is hereby amended by adding the provisions set forth as sections 1.2 and 1.4 of this act.

Sec. 1.2. 1. *The annual report of accountability prepared pursuant to NRS 385.347 must include, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district, information concerning pupils who are eligible for free or reduced-price breakfasts pursuant to 42 U.S.C. §§ 1771 et seq. and pupils who are eligible for free or reduced-price lunches pursuant to 42 U.S.C. §§ 1751 et seq., including, without limitation:*

(a) *The number and percentage of pupils who are eligible for free or reduced-price breakfasts;*

(b) *The percentage of pupils who receive free and reduced-price breakfasts;*

(c) *The number and percentage of pupils who are eligible for free or reduced-price lunches;*

(d) *The percentage of pupils who receive free and reduced-price lunches;*

(e) *A comparison of the achievement and proficiency of pupils, reported separately by race ~~+~~ and ethnicity, who are eligible for free or reduced-price breakfasts, pupils who receive free and reduced-price breakfasts, pupils who are eligible for free or reduced-price lunches, pupils who receive free and reduced-price lunches and pupils who are not eligible for free or reduced-price breakfasts or lunches;*

(f) *A comparison of pupils, reported separately by race ~~+~~ and ethnicity, who are eligible for free or reduced-price breakfasts, pupils who receive free and reduced-price breakfasts, pupils who are eligible for free or reduced-price lunches and pupils who receive free and reduced-price lunches for which data is required to be collected in the following areas:*

(1) *Retention rates;*

(2) *Graduation rates;*

(3) *Dropout rates;*

(4) *Grade point averages; and*

(5) *Scores on the examinations administered pursuant to NRS 389.550 and 389.805 and the college and career readiness assessment administered pursuant to NRS 389.807.*

2. *The State Board may adopt any regulations necessary to carry out the provisions of this section.*

Sec. 1.4. *The annual report of accountability prepared by the State Board pursuant to NRS 385.3572 must include for each school district, including, without limitation, each charter school in the district, and for this State as a whole, information concerning pupils who are eligible for free or reduced-price breakfasts pursuant to 42 U.S.C. §§ 1771 et seq. and pupils who are eligible for free or reduced-price lunches pursuant to 42 U.S.C. §§ 1751 et seq., including, without limitation:*

1. *The number and percentage of pupils who are eligible for free or reduced-price breakfasts;*

2. *The number and percentage of pupils who receive free and reduced-price breakfasts;*

3. *The number and percentage of pupils who are eligible for free or reduced-price lunches;*

4. *The number and percentage of pupils who receive free and reduced-price lunches;*

5. *A comparison of the achievement and proficiency of pupils, reported separately by race ~~and~~ and ethnicity, who are eligible for free or reduced-price breakfasts, pupils who receive free and reduced-price breakfasts, pupils who are eligible for free or reduced-price lunches, pupils who receive free and reduced-price lunches and pupils who are not eligible for free or reduced-price breakfasts or lunches;*

6. *A comparison of pupils, reported separately by race ~~and~~ and ethnicity, who are eligible for free or reduced-price breakfasts, pupils who receive free and reduced-price breakfasts, pupils who are eligible for free or reduced-price lunches and pupils who receive free and reduced-price lunches for which data is required to be collected in the following areas:*

(a) Retention rates;

(b) Graduation rates;

(c) Dropout rates;

(d) Grade point averages; and

(e) Scores on the examinations administered pursuant to NRS 389.550 and 389.805 and the college and career readiness assessment administered pursuant to NRS 389.807.

Sec. 2. NRS 385.3455 is hereby amended to read as follows:

385.3455 As used in NRS 385.3455 to 385.3891, inclusive, *and sections 1.2 and 1.4 of this act*, unless the context otherwise requires, the words and terms defined in NRS 385.346 to 385.34675, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 385.3468 is hereby amended to read as follows:

385.3468 The provisions of NRS 385.3455 to 385.3891, inclusive, *and sections 1.2 and 1.4 of this act* do not supersede, negate or otherwise limit the effect or application of the provisions of chapters 288 and 391 of NRS or the rights, remedies and procedures afforded to employees of a school district under the terms of collective bargaining agreements, memoranda of understanding or other such agreements between employees and their employers.

Sec. 4. NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools sponsored by the school district. The board of trustees of each school district shall report the information required by NRS 385.347 to 385.3495, inclusive, *and section 1.2 of this act*

for each charter school sponsored by the school district. The information for charter schools must be reported separately.

2. The board of trustees of each school district shall, on or before September 30 of each year, prepare a single annual report of accountability concerning the educational goals and objectives of the school district, the information prescribed by NRS 385.347 to 385.3495, inclusive, *and section 1.2 of this act*, and such other information as is directed by the Superintendent of Public Instruction. A separate reporting for a group of pupils must not be made pursuant to NRS 385.347 to 385.3495, inclusive, *and section 1.2 of this act*, if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The Department shall use the mechanism approved by the United States Department of Education for the statewide system of accountability for public schools for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

3. The State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall, on or before September 30 of each year, prepare an annual report of accountability of the charter schools sponsored by the State Public Charter School Authority or institution, as applicable, concerning the accountability information prescribed by the Department pursuant to this section. The Department, in consultation with the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school, shall prescribe by regulation the information that must be prepared by the State Public Charter School Authority and institution, as applicable, which must include, without limitation, the information contained in subsection 2 and NRS 385.347 to 385.3495, inclusive, *and section 1.2 of this act*, as applicable to charter schools. The Department shall provide for public dissemination of the annual report of accountability prepared pursuant to this section by posting a copy of the report on the Internet website maintained by the Department.

4. The annual report of accountability prepared pursuant to this section must be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

5. The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to this section and provide the forms to the respective school districts, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school.

(b) Provide statistical information and technical assistance to the school districts, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school to ensure that the reports provide comparable information with

respect to each school in each district, each charter school and among the districts and charter schools throughout this State.

(c) Consult with a representative of the:

- (1) Nevada State Education Association;
- (2) Nevada Association of School Boards;
- (3) Nevada Association of School Administrators;
- (4) Nevada Parent Teacher Association;
- (5) Budget Division of the Department of Administration;
- (6) Legislative Counsel Bureau; and
- (7) Charter School Association of Nevada,

↪ concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

6. The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

7. On or before September 30 of each year:

(a) The board of trustees of each school district, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall provide written notice that the report required pursuant to this section is available on the Internet website maintained by the school district, State Public Charter School Authority or institution, if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

- (1) Governor;
- (2) State Board;
- (3) Department;
- (4) Committee;
- (5) Bureau; and

(6) The Attorney General, with a specific reference to the information that is reported pursuant to paragraph (e) of subsection 1 of NRS 385.3483.

(b) The board of trustees of each school district, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall provide for public dissemination of the annual report of accountability prepared pursuant to this section by posting a copy of the report on the Internet website maintained by the school district, the State Public Charter School Authority or the institution, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school sponsored by the district, the residents of the district, and the parents and guardians of pupils enrolled in schools in the district, including, without limitation, each charter school sponsored by the district. If the State Public Charter School Authority or the institution

does not maintain a website, the State Public Charter School Authority or the institution, as applicable, shall otherwise provide for public dissemination of the annual report by providing a copy of the report to each charter school it sponsors and the parents and guardians of pupils enrolled in each charter school it sponsors.

8. Upon the request of the Governor, the Attorney General, an entity described in paragraph (a) of subsection 7 or a member of the general public, the board of trustees of a school district, the State Public Charter School Authority or a college or university within the Nevada System of Higher Education that sponsors a charter school, as applicable, shall provide a portion or portions of the report required pursuant to this section.

Sec. 4.5. NRS 385.3572 is hereby amended to read as follows:

385.3572 1. The State Board shall prepare a single annual report of accountability that includes, without limitation the information prescribed by NRS 385.3572 to 385.3592, inclusive ~~and~~, *and section 1.4 of this act.*

2. A separate reporting for a group of pupils must not be made pursuant to this section and NRS 385.3572 to 385.3592, inclusive, *and section 1.4 of this act*, if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The Department shall use the mechanism approved by the United States Department of Education for the statewide system of accountability for public schools for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

3. The annual report of accountability must:

- (a) Be prepared in a concise manner; and
- (b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

4. On or before October 15 of each year, the State Board shall:

(a) Provide for public dissemination of the annual report of accountability by posting a copy of the report on the Internet website maintained by the Department; and

(b) Provide written notice that the report is available on the Internet website maintained by the Department. The written notice must be provided to the:

- (1) Governor;
- (2) Committee;
- (3) Bureau;
- (4) Board of Regents of the University of Nevada;
- (5) Board of trustees of each school district;
- (6) Governing body of each charter school; and
- (7) The Attorney General, with a specific reference to the information that is reported pursuant to paragraph (e) of subsection 1 of NRS 385.3584.

5. Upon the request of the Governor, the Attorney General, an entity described in paragraph (b) of subsection 4 or a member of the general public,

the State Board shall provide a portion or portions of the annual report of accountability.

Sec. 5. This act becomes effective ~~on~~ :

1. On July 1, 2015 ~~[]~~, for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On January 1, 2016, for all other purposes.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

Amendment No. 736 to Assembly Bill No. 107 clarifies that data will be collected based upon race and ethnicity, not just race. It also changes the effective date of the bill.

Amendment adopted.

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

Assembly Bill No. 116.

Bill read second time and ordered to third reading.

Assembly Bill No. 121.

Bill read second time and ordered to third reading.

Assembly Bill No. 140.

Bill read second time and ordered to third reading.

Assembly Bill No. 141.

Bill read second time and ordered to third reading.

Assembly Bill No. 172.

Bill read second time.

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

Amendment No. 763.

SUMMARY—Revises provisions relating to public works. (BDR 28-565)

AN ACT relating to public works; raising the estimated thresholds at or above which prevailing wage requirements apply to certain public work construction projects; increasing the amount of a preference in bidding on certain public works given to contractors and certain other persons who meet certain eligibility requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, any contract for a public work whose cost is \$100,000 or more is subject to the prevailing wage requirements. (NRS 338.080) The prevailing wage requirements also apply if a redevelopment agency provides financial incentives to the developer with a value of more than \$100,000. (NRS 279.500) Sections 3 and 4 of this bill raise the threshold for the applicability of prevailing wage requirements from \$100,000 to ~~[\$350,000]~~ \$500,000, require this amount to be adjusted every 5 years for inflation, and also make a technical correction in section 4 clarifying that if the relevant

work will cost exactly ~~[\$350,000,]~~ \$500,000. the work is subject to the prevailing wage requirements.

Under existing law, a contractor, applicant to serve as a construction manager at risk or design-build team may qualify to receive a 5 percent preference in bidding on certain contracts for public works if certain conditions, including the employment of a specified percentage of Nevada employees, are met. (NRS 338.1389, 338.147, 338.1693, 338.1725, 338.1727, 408.3886) Sections 3.3, 3.5, 3.6, 3.7, 3.8 and 4.5 increase the amount of that preference in bidding to 7.5 percent.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 338.080 is hereby amended to read as follows:

338.080 *1.* None of the provisions of NRS 338.020 to 338.090, inclusive, apply to:

~~{1.}~~ *(a)* Any work, construction, alteration, repair or other employment performed, undertaken or carried out, by or for any railroad company or any person operating the same, whether such work, construction, alteration or repair is incident to or in conjunction with a contract to which a public body is a party, or otherwise.

~~{2.}~~ *(b)* Apprentices recorded under the provisions of chapter 610 of NRS.

~~{3.}~~ *(c)* Any contract for a public work whose cost is less than ~~[\$100,000-
\$350,000-]~~ \$500,000. A unit of the project must not be separated from the total project, even if that unit is to be completed at a later time, in order to lower the cost of the project below ~~[\$100,000-
\$350,000-]~~ \$500,000.

2. The Labor Commissioner shall, on or before January 1, 2020, and every 5 years thereafter, adjust the amount set forth in paragraph (c) of subsection 1 to reflect inflation, as measured by the average percentage of increase or decrease in the Consumer Price Index for All Urban Consumers of the United States Department of Labor, Bureau of Labor Statistics, for the preceding 5 years. The Labor Commissioner shall determine the amount of the increase or decrease required by this subsection and establish the adjusted amounts to take effect on January 1 of that year.

Sec. 3.3. NRS 338.1389 is hereby amended to read as follows:

338.1389 *1.* Except as otherwise provided in subsection 10 and NRS 338.1385, 338.1386 and 338.13864, a public body or its authorized representative shall award a contract for a public work for which the estimated cost exceeds \$250,000 to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:

(a) Submitted by a responsive and responsible contractor who:

(1) Has been determined by the public body to be a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(2) At the time the contractor submits his or her bid, provides a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and

(3) Within 2 hours after the completion of the opening of the bids by the public body or its authorized representative, submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117; and

(b) Not more than ~~5~~ 7.5 percent higher than the bid submitted by the lowest responsive and responsible bidder who:

(1) Does not provide, at the time he or she submits the bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him or her by the State Contractors' Board pursuant to subsection 3 or 4; or

(2) Does not submit, within 2 hours after the completion of the opening of the bids by the public body or its authorized representative, a signed affidavit certifying that he or she will comply with the requirements of paragraphs (a) to (d), inclusive, of subsection 1 of NRS 338.0117 for the duration of the contract,

↪ shall be deemed to be the best bid for the purposes of this section.

3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:

(a) Paid directly, on his or her own behalf:

(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:

(a) Paid directly, on his or her own behalf:

(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:

(a) Sales and use taxes and governmental services taxes that were paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and

(b) Sales and use taxes that were paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the renewal of his or her contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required

pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain eligibility to hold such a certificate.

7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless the contractor reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.

8. If a contractor holds more than one contractor's license, the contractor must submit a separate application for each license pursuant to which the contractor wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.

9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works:

(a) Submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information; or

(b) Is found by the Board to have, within the preceding 5 years, materially breached a contract for a public work for which the cost exceeds \$5,000,000, the contractor is not eligible to receive a preference in bidding on public works.

10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.

11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may receive a preference in bidding only if both or all of the joint venturers separately meet the requirements of subsection 2.

12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

13. A person who submitted a bid on the public work or an entity who believes that the contractor who was awarded the contract for the public work wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the public body to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and

(b) Be filed with the public body not later than 3 business days after the opening of the bids by the public body or its authorized representative.

14. If a public body receives a written objection pursuant to subsection 13, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection and the public body or its authorized representative may proceed immediately to award the contract. If the public body determines that the objection is accompanied by the required proof or substantiating evidence, the public body shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the public body or its authorized representative may proceed to award the contract accordingly.

Sec. 3.5. NRS 338.147 is hereby amended to read as follows:

338.147 1. Except as otherwise provided in subsection 10 and NRS 338.143, 338.1442 and 338.1446, a local government or its authorized representative shall award a contract for a public work for which the estimated cost exceeds \$250,000 to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:

(a) Submitted by a contractor who:

(1) Has been found to be a responsible and responsive contractor by the local government or its authorized representative;

(2) At the time the contractor submits his or her bid, provides a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and

(3) Within 2 hours after the completion of the opening of the bids by the local government or its authorized representative, submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117; and

(b) Not more than ~~5~~ 7.5 percent higher than the bid submitted by the lowest responsive and responsible bidder who:

(1) Does not provide, at the time he or she submits the bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him or her by the State Contractors' Board pursuant to subsection 3 or 4; or

(2) Does not submit, within 2 hours after the completion of the opening of the bids by the public body or its authorized representative, a signed affidavit certifying that he or she will comply with the requirements of paragraphs (a) to (d), inclusive, of subsection 1 of NRS 338.0117 for the duration of the contract,

↪ shall be deemed to be the best bid for the purposes of this section.

3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who

is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:

(a) Paid directly, on his or her own behalf:

(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:

(a) Paid directly, on his or her own behalf:

(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:

(a) Sales and use taxes and governmental services taxes paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and

(b) Sales and use taxes paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the renewal of his or her contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain eligibility to hold such a certificate.

7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless the contractor reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.

8. If a contractor holds more than one contractor's license, the contractor must submit a separate application for each license pursuant to which the contractor wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.

9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works:

(a) Submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information; or

(b) Is found by the Board to have, within the preceding 5 years, materially breached a contract for a public work for which the cost exceeds \$5,000,000,

the contractor is not eligible to receive a preference in bidding on public works.

10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.

11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may receive a preference in bidding only if both or all of the joint venturers separately meet the requirements of subsection 2.

12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

13. A person who submitted a bid on the public work or an entity who believes that the contractor who was awarded the contract for the public work wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the local government to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and

(b) Be filed with the local government not later than 3 business days after the opening of the bids by the local government or its authorized representative.

14. If a local government receives a written objection pursuant to subsection 13, the local government shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the local government determines that the objection is not accompanied by the required proof or substantiating evidence, the local government shall dismiss the objection and the local government or its authorized representative may proceed immediately to award the contract. If the local government determines that the objection is accompanied by the required proof or substantiating evidence, the local government shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the local government or its authorized representative may proceed to award the contract accordingly.

Sec. 3.6. NRS 338.1693 is hereby amended to read as follows:

338.1693 1. The public body or its authorized representative shall appoint a panel consisting of at least three but not more than seven members, a majority of whom must have experience in the construction industry, to

rank the proposals submitted to the public body by evaluating the proposals as required pursuant to subsections 2 and 3.

2. The panel appointed pursuant to subsection 1 shall rank the proposals by:

(a) Verifying that each applicant satisfies the requirements of NRS 338.1691; and

(b) Evaluating and assigning a score to each of the proposals received by the public body based on the factors and relative weight assigned to each factor that the public body specified in the request for proposals.

3. When ranking the proposals, the panel appointed pursuant to subsection 1 shall assign a relative weight of ~~5~~ 7.5 percent to the applicant's possession of a certificate of eligibility to receive a preference in bidding on public works if the applicant submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that work.

4. After the panel appointed pursuant to subsection 1 ranks the proposals, the public body or its authorized representative shall, except as otherwise provided in subsection 8, select at least the two but not more than the five applicants whose proposals received the highest scores for interviews.

5. The public body or its authorized representative may appoint a separate panel to interview and rank the applicants selected pursuant to subsection 4. If a separate panel is appointed pursuant to this subsection, the panel must consist of at least three but not more than seven members, a majority of whom must have experience in the construction industry.

6. During the interview process, the panel conducting the interview may require the applicants to submit a preliminary proposed amount of compensation for managing the preconstruction and construction of the public work, but in no event shall the proposed amount of compensation exceed 20 percent of the scoring for the selection of the most qualified applicant. All presentations made at any interview conducted pursuant to this subsection or subsection 5 may be made only by key personnel employed by the applicant, as determined by the applicant, and the employees of the applicant who will be directly responsible for managing the preconstruction and construction of the public work.

7. After conducting such interviews, the panel that conducted the interviews shall rank the applicants by using a ranking process that is separate from the process used to rank the applicants pursuant to subsection 2 and is based only on information submitted during the interview process. The score to be given for the proposed amount of compensation, if any, must be calculated by dividing the lowest of all the proposed amounts of compensation by the applicant's proposed amount of compensation multiplied by the total possible points available to each applicant. When

ranking the applicants, the panel that conducted the interviews shall assign a relative weight of ~~{5}~~ 7.5 percent to the applicant's possession of a certificate of eligibility to receive a preference in bidding on public works if the applicant submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that work.

8. If the public body did not receive at least two proposals, the public body may not contract with a construction manager at risk.

9. Upon receipt of the final rankings of the applicants from the panel that conducted the interviews, the public body or its authorized representative shall enter into negotiations with the most qualified applicant determined pursuant to the provisions of this section for a contract for preconstruction services, unless the public body required the submission of a proposed amount of compensation, in which case the proposed amount of compensation submitted by the applicant must be the amount offered for the contract. If the public body or its authorized representative is unable to negotiate a contract with the most qualified applicant for an amount of compensation that the public body or its authorized representative and the most qualified applicant determine to be fair and reasonable, the public body or its authorized representative shall terminate negotiations with that applicant. The public body or its authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.

10. The public body or its authorized representative shall make available to all applicants and the public the final rankings of the applicants, as determined by the panel that conducted the interviews, and shall provide, upon request, an explanation to any unsuccessful applicant of the reasons why the applicant was unsuccessful.

Sec. 3.7. NRS 338.1725 is hereby amended to read as follows:

338.1725 1. The public body shall select at least two but not more than four finalists from among the design-build teams that submitted preliminary proposals. If the public body does not receive at least two preliminary proposals from design-build teams that the public body determines to be qualified pursuant to this section and NRS 338.1721, the public body may not contract with a design-build team for the design and construction of the public work.

2. The public body shall select finalists pursuant to subsection 1 by:

(a) Verifying that each design-build team which submitted a preliminary proposal satisfies the requirements of NRS 338.1721;

(b) Conducting an evaluation of the qualifications of each design-build team that submitted a preliminary proposal, including, without limitation, an evaluation of:

(1) The professional qualifications and experience of the members of the design-build team;

(2) The performance history of the members of the design-build team concerning other recent, similar projects completed by those members, if any;

(3) The safety programs established and the safety records accumulated by the members of the design-build team; and

(4) The proposed plan of the design-build team to manage the design and construction of the public work that sets forth in detail the ability of the design-build team to design and construct the public work; and

(c) Except as otherwise provided in this paragraph, assigning, without limitation, a relative weight of ~~{5}~~ 7.5 percent to the possession of both a certificate of eligibility to receive a preference in bidding on public works by all contractors on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this paragraph relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this paragraph do not apply insofar as their application would preclude or reduce federal assistance for that public work.

3. After the selection of finalists pursuant to this section, the public body shall make available to the public the results of the evaluations of preliminary proposals conducted pursuant to paragraph (b) of subsection 2 and identify which of the finalists, if any, received an assignment of ~~{5}~~ 7.5 percent pursuant to paragraph (c) of subsection 2.

Sec. 3.8. NRS 338.1727 is hereby amended to read as follows:

338.1727 1. After selecting the finalists pursuant to NRS 338.1725, the public body shall provide to each finalist a request for final proposals for the public work. The request for final proposals must:

(a) Set forth the factors that the public body will use to select a design-build team to design and construct the public work, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the public body.

2. If one or more of the finalists selected pursuant to NRS 338.1725 is disqualified or withdraws, the public body may select a design-build team from the remaining finalist or finalists.

3. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the public body shall assign, without limitation, a relative

weight of ~~{5}~~ 7.5 percent to the possession of both a certificate of eligibility to receive a preference in bidding on public works by all contractors on the design-build team if the contractors submit signed affidavits that meet the requirements of subsection 1 of NRS 338.0117, and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team, and a relative weight of at least 30 percent to the proposed cost of design and construction of the public work. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to a preference in bidding on public works, or a preference when competing for public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.

4. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly and be responsive to the criteria that the public body will use to select a design-build team to design and construct the public work described in subsection 1. A design-build team that submits a final proposal which is not responsive shall not be awarded the contract and shall not be eligible for the partial reimbursement of costs provided for in subsection 7.

5. A final proposal is exempt from the requirements of NRS 338.141.

6. After receiving and evaluating the final proposals for the public work, the public body or its authorized representative shall enter into negotiations with the most qualified applicant, as determined pursuant to the criteria set forth pursuant to subsections 1 and 3, and award the design-build contract to the design-build team whose proposal is selected. If the public body or its authorized representative is unable to negotiate with the most qualified applicant a contract that is determined by the parties to be fair and reasonable, the public body may terminate negotiations with that applicant. The public body or its authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.

7. If a public body selects a final proposal and awards a design-build contract pursuant to subsection 6, the public body shall:

(a) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (j) of subsection 2 of NRS 338.1723. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(b) Make available to the public the results of the evaluation of final proposals that was conducted and the ranking of the design-build teams who submitted final proposals. The public body shall not release to a third party,

or otherwise make public, financial or proprietary information submitted by a design-build team.

8. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive.

(b) Must specify:

(1) An amount that is the maximum amount that the public body will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

(c) May set forth the terms by which the design-build team agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design-build team.

(d) Except as otherwise provided in paragraph (e), must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.

(e) May require the design-build team to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design-build team or the employees or agents of the design-build team in the performance of the contract.

(f) Must require that the design-build team to whom a contract is awarded assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner.

9. Upon award of the design-build contract, the public body shall make available to the public copies of all preliminary and final proposals received.

Sec. 4. NRS 279.500 is hereby amended to read as follows:

279.500 1. The provisions of NRS 338.010 to 338.090, inclusive, apply to any contract for new construction, repair or reconstruction which is awarded on or after October 1, 1991, by an agency for work to be done in a project.

2. If an agency:

(a) Provides property for development at less than the fair market value of the property;

(b) Provides a loan to a small business pursuant to NRS 279.700 to 279.740, inclusive; or

(c) Provides financial incentives to a developer with a value of ~~more than \$100,000, \$350,000,~~ \$500,000 or more,

↪ regardless of whether the project is publicly or privately owned, the agency must provide in the loan agreement with the small business or the agreement with the developer, as applicable, that the development project is subject to the provisions of NRS 338.010 to 338.090, inclusive, to the same extent as if the agency had awarded the contract for the project. This subsection applies only to the project covered by the loan agreement between the agency and the small business or the agreement between the agency and the developer, as applicable. This subsection does not apply to future development of the property unless an additional loan, or additional financial incentives with a value of ~~more than \$100,000, \$350,000,~~ \$500,000 or more, are provided to the small business or developer, as applicable.

3. *The Labor Commissioner shall, on or before January 1, 2020, and every 5 years thereafter, adjust the amount set forth in paragraph (c) of subsection 2 to reflect inflation, as measured by the average percentage of increase or decrease in the Consumer Price Index for All Urban Consumers of the United States Department of Labor, Bureau of Labor Statistics, for the preceding 5 years. The Labor Commissioner shall determine the amount of the increase or decrease required by this subsection and establish the adjusted amounts to take effect on January 1 of that year.*

Sec. 4.5. NRS 408.3886 is hereby amended to read as follows:

408.3886 1. After selecting the finalists pursuant to NRS 408.3885, the Department shall provide to each finalist a request for final proposals for the project. The request for final proposals must:

(a) Set forth the factors that the Department will use to select a design-build team to design and construct the project, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the Department.

2. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the Department shall assign, without limitation, a relative weight of ~~{5}~~ 7.5 percent to the design-build team's possession of both a certificate of eligibility to receive a preference in bidding on public works by the prime contractor on the design-build team, if the design-build team submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117, and a certificate of eligibility to receive a preference when competing for public works by all persons who hold a certificate of registration to practice architecture or a license as a professional engineer on the design-build team, and a relative weight of at least 30 percent for the proposed cost of design and construction of the project. If any federal statute or regulation precludes the granting of federal assistance or reduces the

amount of that assistance for a particular project because of the provisions of this subsection relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that project.

3. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly, be responsive to the criteria that the Department will use to select a design-build team to design and construct the project described in subsection 1 and comply with the provisions of NRS 338.141.

4. After receiving the final proposals for the project, the Department shall:

- (a) Select the most cost-effective and responsive final proposal, using the criteria set forth pursuant to subsections 1 and 2;
- (b) Reject all the final proposals; or
- (c) Request best and final offers from all finalists in accordance with subsection 5.

5. If the Department determines that no final proposal received is cost-effective or responsive and the Department further determines that requesting best and final offers pursuant to this subsection will likely result in the submission of a satisfactory offer, the Department may prepare and provide to each finalist a request for best and final offers for the project. In conjunction with preparing a request for best and final offers pursuant to this subsection, the Department may alter the scope of the project, revise the estimates of the costs of designing and constructing the project, and revise the selection factors and relative weights described in paragraph (a) of subsection 1. A request for best and final offers prepared pursuant to this subsection must set forth the date by which best and final offers must be submitted to the Department. After receiving the best and final offers, the Department shall:

- (a) Select the most cost-effective and responsive best and final offer, using the criteria set forth in the request for best and final offers; or
- (b) Reject all the best and final offers.

6. If the Department selects a final proposal pursuant to paragraph (a) of subsection 4 or selects a best and final offer pursuant to paragraph (a) of subsection 5, the Department shall hold a public meeting to:

- (a) Review and ratify the selection.
- (b) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (f) of subsection 3 of NRS 408.3883. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(c) Make available to the public a summary setting forth the factors used by the Department to select the successful design-build team and the ranking

of the design-build teams who submitted final proposals and, if applicable, best and final offers. The Department shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

7. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive; and

(b) Must specify:

(1) An amount that is the maximum amount that the Department will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the Department will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

8. A design-build team to whom a contract is awarded pursuant to this section shall:

(a) Assume overall responsibility for ensuring that the design and construction of the project is completed in a satisfactory manner; and

(b) Use the workforce of the prime contractor on the design-build team to construct at least 15 percent of the project.

Sec. 5. 1. The amendatory provisions of this act do not apply to a public work or other project of construction, repair or reconstruction that is awarded before July 1, 2015.

2. As used in this section, "public work" has the meaning ascribed to it in NRS 338.010.

Sec. 6. (Deleted by amendment.)

Sec. 7. This act becomes effective on July 1, 2015.

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

Amendment No. 763 to Assembly Bill No. 172 increases from \$350,000 to \$500,000 the estimated cost threshold at or above which prevailing wage requirements apply to certain public work construction projects.

Amendment adopted.

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

Assembly Bill No. 225.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 727.

SUMMARY—Revises provisions governing programs for reentry of offenders and parolees into the community. (BDR 16-45)

AN ACT relating to the Department of Corrections; requiring certain provisions to be included in contracts entered into between the Director of the Department of Corrections and public or private entities to provide certain services to offenders or parolees participating in a correctional or judicial program for reentry of offenders and parolees into the community; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Director of the Department of Corrections, after consulting with the Division of Parole and Probation of the Department of Public Safety, to enter into one or more contracts with one or more public or private entities to provide certain services, as necessary and appropriate, to offenders or parolees participating in a correctional or judicial program for reentry of offenders and parolees into the community. (NRS 209.4889) This bill removes the requirement that the Director consult with the Division before entering into such a contract and instead authorizes the Director to consult with the Division before entering into such a contract. This bill also requires such ~~contracts,~~ a contract to contain certain provisions concerning: (1) services that the entity will provide; (2) ~~offenders and~~ parolees who have completed or are currently participating in ~~such~~ a program of services ~~provided by the entity.~~ (3) assessments of the risk levels and needs of offenders and parolees; and (4) annual meetings between the Director, a representative of the Division, and entities which have entered into a contract with the Director to provide such services to offenders and parolees.

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

Section 1. NRS 209.4889 is hereby amended to read as follows:

209.4889 1. The Director may ~~after consulting with the Division,~~ enter into one or more contracts with one or more public or private entities to provide any of the following services, as necessary and appropriate, to offenders or parolees participating in a correctional or judicial program:

- (a) Transitional housing;
- (b) Treatment pertaining to substance abuse or mental health;
- (c) Training in life skills;
- (d) Vocational rehabilitation and job skills training; and
- (e) Any other services required by offenders or parolees who are participating in a correctional or judicial program.

2. The Director may consult with the Division before entering into a contract with a public or private entity pursuant to subsection 1.

3. The Director shall, as necessary and appropriate, provide referrals and information regarding:

- (a) Any of the services provided pursuant to subsection 1;
- (b) Access and availability of any appropriate self-help groups;
- (c) Social services for families and children; and
- (d) Permanent housing.

~~3-~~ 4. The Director may apply for and accept any gift, donation, bequest, grant or other source of money to carry out the provisions of this section. Money received pursuant to this subsection may be deposited with the State Treasurer for credit to the Account for Reentry Programs in the State General Fund created by NRS 480.810.

~~4-~~ 5. A contract entered into between the Director and a public or private entity pursuant to subsection 1 must require the entity to:

(a) Provide a budget concerning ~~any~~ all services the entity will provide during the duration of any grant received.

(b) Provide all services required by any grant received.

(c) Provide to the Department for its approval a curriculum for any program of services the entity will provide.

(d) Provide to the Division ~~the number of offenders or parolees to whom any grant received will enable the entity to provide services and, once services are provided,~~ if appropriate, a list of the ~~offenders or~~ parolees who have completed or are currently participating in ~~such services,~~ a program of services provided by the entity pursuant to any grant received.

(e) Provide to any offender or parolee who completes a program of services provided by the entity a certificate of completion, and provide a copy of such a certificate to the Division ~~or~~ or the Department, as appropriate.

(f) To the extent financially practicable ~~and~~ and necessary, assess the risk levels and needs of offenders and parolees by using ~~the most effective data system available to assess such risk levels,~~ a validated assessment tool.

(g) Share with the Director information concerning assessments of the risk levels and needs of offenders and parolees so the Director can ensure that adequate assessments are being conducted.

(h) ~~Meet~~ While the entity is providing services pursuant to the contract, meet annually with the Director, a representative of the Division, and other entities that have entered into a contract with the Director pursuant to subsection 1 to discuss, without limitation:

(1) The services provided by the entities, including the growth and success of the services, any problems with the services and any potential solutions to such problems;

(2) Issues relating to the reentry of offenders and parolees into the community and reducing the risk of recidivism; and

(3) Issues relating to offenders and parolees who receive services from an entity and are subsequently convicted of another crime.

~~5-~~ 6. As used in this section, "training in life skills" includes, without limitation, training in the areas of:

(a) Parenting;

(b) Improving human relationships;

(c) Preventing domestic violence;

(d) Maintaining emotional and physical health;

(e) Preventing abuse of alcohol and drugs;

- (f) Preparing for and obtaining employment; and
- (g) Budgeting, consumerism and personal finances.

Sec. 2. The amendatory provisions of this act apply to a contract entered into between the Director of the Department of Corrections and a public or private entity pursuant to NRS 209.4889, as amended by section 1 of this act, after October 1, 2015.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

Amendment No. 727 to Assembly Bill No. 225 deletes the requirement that the Director of Corrections consult with the Division of Parole and Probation prior to entering into a contract with a private entity providing reentry services and instead authorizes the Director to do so.

The amendment makes minor technical corrections to provisions of the bill concerning contracts with providers of reentry services.

Amendment adopted.

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

Assembly Bill No. 362.

Bill read second time and ordered to third reading.

Assembly Bill No. 363.

Bill read second time.

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

Amendment No. 764.

SUMMARY—Provides an ~~optional~~ additional benefit ~~to~~ option for the surviving spouse or survivor beneficiary of certain deceased members of the Public Employees' Retirement System. (BDR 23-1056)

AN ACT relating to public employees; providing an ~~optional~~ additional benefit ~~to~~ option for the surviving spouse or survivor beneficiary of a police officer or firefighter killed in the line of duty or other member of the Public Employees' Retirement System ~~who was~~ killed in the ~~performance of his or her duty;~~ course of employment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth several benefit options for the surviving spouse of a deceased member of the Public Employees' Retirement System. (NRS 286.674-286.6766) ~~This~~ Existing law also sets forth several benefit options for the survivor beneficiary of a deceased member of the System if the member is unmarried on the date of the member's death. (NRS 286.6767-286.6769) Section 1.3 of this bill provides an additional benefit option for the surviving spouse ~~for survivor beneficiary~~ of a member who ~~was~~ is killed in the ~~performance of his or her~~ line of duty ~~or~~ the course of employment, as applicable. This additional option authorizes the surviving spouse ~~for survivor beneficiary~~ to elect to receive a benefit that is the equivalent to the greater of: (1) fifty percent of the salary of the member on the date of the member's death; or (2) one hundred percent of the

retirement allowance that the member was eligible to receive based on the member's years of service obtained before the member's death without any reduction for age for the deceased member. Section 1.5 of this bill provides that this additional benefit option is available to a survivor beneficiary if the deceased member is unmarried on the date of the member's death.

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

Section 1. Chapter 286 of NRS is hereby amended by adding thereto ~~the new section to read as follows:~~ the provisions set forth as sections 1.3 and 1.5 of this act.

Sec. 1.3. 1. The spouse ~~for survivor beneficiary~~ of a member who ~~was~~ is a police officer or firefighter killed in the ~~performance of his or her~~ line of duty or the spouse of any other member killed in the course of employment is entitled to receive a monthly allowance equivalent to the greater of:

(a) Fifty percent of the salary of the member on the date of the member's death; or

(b) ~~The~~ One hundred percent of the retirement allowance that the member was eligible to receive based on the member's years of service obtained before the member's death without any reduction for age for the deceased member.

2. The benefits provided by this section must be paid ~~f, as applicable, to:~~

~~*(a) The* to the spouse ~~until the death or remarriage of the spouse; or~~~~

~~*(b) The survivor beneficiary until the death of the survivor beneficiary.*~~ *for the remainder of the spouse's life.*

3. The spouse ~~for survivor beneficiary~~ may elect to receive the benefits provided by any one of the following only:

(a) This section;

(b) NRS 286.674; ~~for 286.67675;~~

(c) NRS 286.676; ~~for 286.6768;~~

(d) NRS 286.6765; ~~for 286.67685;~~ or

(e) NRS 286.6766; ~~for 286.6769.~~

4. For the purposes of this section, the Board shall define by regulation "killed in the ~~performance of his or her duty;~~ line of duty" and "killed in the course of employment."

Sec. 1.5. 1. Except as otherwise provided in subsection 2, the survivor beneficiary of a member who is a police officer or firefighter killed in the line of duty or the survivor beneficiary of any other member killed in the course of employment is entitled to receive a monthly allowance equivalent to the greater of:

(a) Fifty percent of the salary of the member on the date of the member's death; or

(b) One hundred percent of the retirement allowance that the member was eligible to receive based on the member's years of service obtained before the member's death without any reduction for age for the deceased member.

2. If the member had designated one or more payees in addition to the survivor beneficiary pursuant to NRS 286.6767, the monthly allowance to which a survivor beneficiary is entitled pursuant to subsection 1 must be divided between the survivor beneficiary and any additional payees in the proportion designated by the member pursuant to NRS 286.6767.

3. The benefits provided by this section must be paid to the survivor beneficiary for the remainder of the survivor beneficiary's life.

4. The survivor beneficiary may elect to receive the benefits provided by any one of the following only:

(a) This section;

(b) NRS 286.67675;

(c) NRS 286.6768;

(d) NRS 286.67685; or

(e) NRS 286.6769.

5. For the purposes of this section, the Board shall define by regulation "killed in the line of duty" and "killed in the course of employment."

6. As used in this section, "survivor beneficiary" means a person designated pursuant to NRS 286.6767.

Sec. 2. NRS 286.671 is hereby amended to read as follows:

286.671 As used in NRS 286.671 to 286.679, inclusive ~~1~~ , and ~~section 1~~ sections 1.3 and 1.5 of this act:

1. "Child" means an unmarried person under 18 years of age who is the issue or legally adopted child of a deceased member. As used in this subsection, "issue" means the progeny or biological offspring of the deceased member.

2. "Dependent parent" means the surviving parent of a deceased member who was dependent upon the deceased member for at least 50 percent of the surviving parent's support for at least 6 months immediately preceding the death of the deceased member.

3. "Spouse" means the surviving husband or wife of a deceased member.

Sec. 3. NRS 286.672 is hereby amended to read as follows:

286.672 1. Except as otherwise provided in subsection 3 ~~1~~ and ~~section 1~~ sections 1.3 and 1.5 of this act, if a deceased member had 2 years of accredited contributing service in the 2 1/2 years immediately preceding the member's death or was a regular, part-time employee who had 2 or more years of creditable contributing service before and at least 1 day of contributing service within 6 months immediately preceding the member's death, or if the employee had 10 or more years of accredited contributing service, certain of the deceased member's dependents are eligible for payments as provided in NRS 286.671 to 286.679, inclusive ~~1~~ , and ~~section 1~~ sections 1.3 and 1.5 of this act. If the death of the member resulted from a mental or physical condition which required the member to leave the employ of a participating public employer or go on leave without pay, eligibility pursuant to the provisions of this section extends for

18 months after the member's termination or commencement of leave without pay.

2. If the death of a member occurs while the member is on leave of absence granted by the member's employer for further training and if the member met the requirements of subsection 1 at the time the member's leave began, certain of the deceased member's dependents are eligible for payments as provided in subsection 1.

3. If the death of a member is caused by an occupational disease or an accident arising out of and in the course of the member's employment, no prior contributing service is required to make the deceased member's dependents eligible for payments pursuant to NRS 286.671 to 286.679, inclusive, and ~~section 4~~ sections 1.3 and 1.5 of this act, except that this subsection does not apply to an accident occurring while the member is traveling between the member's home and the member's principal place of employment or to an accident or occupational disease arising out of employment for which no contribution is made.

4. As used in this section, "dependent" includes a survivor beneficiary designated pursuant to NRS 286.6767.

Sec. 4. NRS 286.679 is hereby amended to read as follows:

286.679 1. If payments to a beneficiary pursuant to NRS 286.671 to 286.679, inclusive, and ~~section 4~~ sections 1.3 and 1.5 of this act cease before the total contributions of a deceased member have been paid in benefits, and there is no person entitled to receive such benefits pursuant to any provision of this chapter, the surplus of such contributions over the benefits actually received may be paid in a lump sum to:

(a) The beneficiary whom the deceased member designated for this purpose in writing on a form approved by the System.

(b) If no such designation was made or the person designated is deceased, the beneficiary who previously received the payments.

(c) If no payment may be made pursuant to paragraphs (a) and (b), the persons entitled as heirs or residuary legatees to the estate of the deceased member.

2. A lump-sum payment made pursuant to this section fully discharges the obligations of the System.

Sec. 4.5. NRS 218C.580 is hereby amended to read as follows:

218C.580 1. The provisions of NRS 286.671 to 286.679, inclusive, except NRS 286.6775 ~~+~~ and sections 1.3 and 1.5 of this act, relating to benefits for survivors pursuant to the Public Employees' Retirement System, are applicable to the dependents of a Legislator who is a member of the Legislators' Retirement System, and the benefits for the survivors must be paid by the Board following the death of the Legislator to the persons entitled thereto from the Legislators' Retirement Fund.

2. It is declared that of the contributions required by subsections 1 and 2 of NRS 218C.390, one-half of 1 percent must be regarded as costs incurred in benefits for survivors.

Sec. 5. This act becomes effective ~~[upon passage and approval.]~~ on July 1, 2015

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

Amendment No. 764 to Assembly Bill No. 363 deletes the "remarriage" penalty; and amends the language to be consistent with other legislation, Senate Bill No. 406, approved by the Senate earlier this Session.

Amendment adopted.

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

Assembly Bill No. 366.

Bill read second time and ordered to third reading.

Assembly Bill No. 371.

Bill read second time and ordered to third reading.

Assembly Bill No. 391.

Bill read second time and ordered to third reading.

Assembly Bill No. 451.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 374.

Bill read third time.

The following amendment was proposed by Senators Farley, Settelmeyer, Atkinson and Spearman:

Amendment No. 821.

SUMMARY—Revises provisions relating to energy ~~and conservation standards.~~ and ~~[conservation standards.]~~ (BDR 58-800)

AN ACT relating to energy ~~and conservation standards;~~ revising provisions relating to certain energy conservation standards adopted by the Director of the Office of Energy and the governing body of a local government; providing that certain design professionals are not subject to disciplinary action for complying with certain energy conservation standards; providing that the adoption of certain energy conservation standards by the Director and the governing body of a local government shall not be deemed to prohibit the Director or governing body from approving and implementing certain energy efficiency programs; revising provisions relating to net metering systems; requiring electric utilities in this State to submit to the Public Utilities Commission of Nevada certain proposed tariffs pursuant to which an electric utility is required to offer net metering to certain customers of the electric utility; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Director of the Office of Energy and the governing body of a local government to adopt certain standards for the conservation of energy in buildings. (NRS 701.220) Section 1 of this bill

prohibits the Director and a governing body from adopting certain standards mandating ~~[a deviation from certain]~~ requirements for air changes per hour ~~[in an applicable climate zone of a building.]~~ Sections 1, 3 and 4 of this bill provide that certain design professionals are not subject to disciplinary action by their respective licensing boards for complying with the energy conservation standards adopted by a governing body pursuant to section 1. Section 1 further provides that the adoption of certain energy conservation standards by the Director and a governing body shall not be deemed to prohibit the Director or governing body from approving and implementing certain energy efficiency programs related to new residential construction.

Existing law requires electric utilities to offer net metering to the customer-generators operating within the service area of the utility until the cumulative capacity of all net metering systems operating in this State is equal to 3 percent of the total peak capacity of all electric utilities in this State. (NRS 704.773) Section 2.3 of this bill requires each electric utility to offer net metering to customers who install net metering systems on or after the date on which such cumulative capacity requirement is met in accordance with a tariff filed by the electric utility and approved by the Public Utilities Commission of Nevada. Section 2.3 sets forth the authority of the Commission relative to the approval of such tariffs. Section 4.5 of this bill requires each electric utility to submit to the Commission the proposed tariff required by section 2.3 not later than July 31, 2015, and requires the Commission to review and approve or disapprove each such proposed tariff not later than December 31, 2015.

Existing law prohibits an electric utility from making changes in any schedule or imposing any rate on residential customers which is based on the time of day, day of the week or time of year during which the electricity is used or which otherwise varies based upon the time during which the electricity is used. (NRS 704.085) Section 2.5 of this bill provides that this prohibition does not apply to residential customers who are users of net metering systems.

Existing law requires each electric utility to submit to the Commission every 3 years a plan to increase the utility's supply of electricity or decrease the demands made on its system by its customers. Existing law provides that the plan must include certain components, including: (1) an energy efficiency program for residential customers; and (2) a comparison of a diverse set of scenarios to address issues relating to customer demand, which must include at least one scenario of low carbon intensity. (NRS 704.741) Section 2.7 of this bill requires that the scenario of low carbon intensity must include the deployment of distributed generation. Additionally, section 2.7 requires that the plan include an analysis of the effects of net metering on the reliability of the distribution system of the electric utility and the costs to the electric utility to provide electric service to all customers.

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

Section 1. NRS 701.220 is hereby amended to read as follows:

701.220 1. The Director shall adopt regulations for the conservation of energy in buildings, including manufactured homes. ~~{Such}~~ *Except as otherwise provided in subsection 5, such* regulations must include the adoption of the most recent version of the International Energy Conservation Code, issued by the International Code Council, and any amendments to the Code that will not materially lessen the effective energy savings requirements of the Code and are deemed necessary to support effective compliance and enforcement of the Code, and must establish the minimum standards for:

- (a) The construction of floors, walls, ceilings and roofs;
- (b) The equipment and systems for heating, ventilation and air-conditioning;
- (c) Electrical equipment and systems;
- (d) Insulation; and
- (e) Other factors which affect the use of energy in a building.

↪ The regulations must provide for the adoption of the most recent version of the International Energy Conservation Code, and any amendments thereto, every third year.

2. The Director may exempt a building from a standard if the Director determines that application of the standard to the building would not accomplish the purpose of the regulations.

3. The regulations must authorize allowances in design and construction for sources of renewable energy used to supply all or a part of the energy required in a building.

4. The standards adopted by the Director are the minimum standards for the conservation of energy and energy efficiency in buildings in this State. The governing body of a local government that is authorized by law to adopt and enforce a building code:

- (a) Except as otherwise provided in paragraph (b), shall incorporate the standards adopted by the Director in its building code;
- (b) ~~{May}~~ *Except as otherwise provided in subsection 5, may* adopt higher or more stringent standards and must report any such higher or more stringent standards, along with supporting documents, to the Director; and
- (c) Shall enforce the standards adopted.

5. ~~The Director or the governing body of a local government shall not adopt a standard or code which mandates a ~~{deviation from the requirements}~~ requirement for air changes per hour ~~in an applicable climate zone as prescribed by the most recent version of the International Energy Conservation Code adopted by the Director pursuant to subsection 1~~ that is ~~{-}~~ outside the following ranges:~~

- (a) Less than 4 1/2 ~~{but not}~~ or more than 7 air changes per hour for an attached residence or any residence for which fire sprinklers are installed; or
- (b) Less than 4 ~~{but not}~~ or more than 7 air changes per hour for any residence other than a residence described in paragraph (a).

6. *A design professional who complies with the standards adopted by the Director or the governing body of a local government pursuant to this section is not subject to disciplinary action by the State Board of Architecture, Interior Design and Residential Design pursuant to paragraph (f) of subsection 1 of NRS 623.270 or the State Board of Professional Engineers and Land Surveyors pursuant to NRS 625.410.*

7. *Nothing in this section shall be deemed to prohibit the Director or the governing body of a local government from approving and implementing a program for the purpose of increasing energy efficiency in new residential construction through the use of sample inspections.*

8. The Director shall solicit comments regarding the adoption of regulations pursuant to this section from:

- (a) Persons in the business of constructing and selling homes;
- (b) Contractors;
- (c) Public utilities;
- (d) Local building officials; and
- (e) The general public,

↪ before adopting any regulations. The Director must conduct at least three hearings in different locations in the State, after giving 30 days' notice of each hearing, before the Director may adopt any regulations pursuant to this section.

9. *As used in this section, "design professional" means a person who holds a professional license or certificate issued pursuant to chapter 623 or 625 of NRS.*

Sec. 2. (Deleted by amendment.)

Sec. 2.3. Chapter 704 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 3, each electric utility shall, in accordance with a tariff filed by the electric utility and approved by the Commission, offer net metering to customer-generators who, on or after the date on which the cumulative capacity requirement of subsection 1 of NRS 704.773 is met, install net metering systems within its service territory.

2. For the purposes of evaluating and approving any tariff filed with the Commission pursuant to subsection 1 and otherwise carrying out the provisions of this section, the Commission:

- (a) May establish one or more rate classes for customer-generators.
- (b) May establish terms and conditions for the participation by customer-generators in net metering, including, without limitation, limitations on enrollment in net metering which the Commission determines are appropriate to further the public interest.
- (c) May close to new customer-generators a tariff filed pursuant to subsection 1 and approved by the Commission if the Commission determines that closing the tariff to new customer-generators is in the public interest.

(d) May authorize an electric utility to establish just and reasonable rates and charges to avoid, reduce or eliminate an unreasonable shifting of costs from customer-generators to other customers of the electric utility.

(e) Shall not approve a tariff filed pursuant to subsection 1 or authorize any rates or charges for net metering that unreasonably shift costs from customer-generators to other customers of the electric utility.

3. To avoid a significant disruption of the net metering market, the Commission may, in its discretion and without a hearing, approve a tariff submitted pursuant to subsection 1 subject to any requirements relating to adjustments which the Commission may impose. In approving a tariff pursuant to this subsection, the Commission may solicit comments from any interested parties and may substitute for any rates, terms or conditions contained in the tariff submitted by the electric utility such rates, terms and conditions as the Commission determines are just and reasonable.

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

Sec. 2.5. NRS 704.085 is hereby amended to read as follows:

704.085 1. ~~(A)~~ Except as otherwise provided in subsection 2, an electric utility shall not make changes in any schedule or impose any rate, and the Commission shall not approve any changes in any schedule or authorize the imposition of any rate by an electric utility, which requires a residential customer to purchase electric service at a rate which is based on the time of day, day of the week or time of year during which the electricity is used or which otherwise varies based upon the time during which the electricity is used, except that the Commission may approve such a change in a schedule or authorize the imposition of such a rate if the approval or authorization is conditioned upon an election by a residential customer to purchase electric service at such a rate.

2. The provisions of subsection 1 do not apply to any changes in a schedule or rates imposed on a customer-generator.

3. As used in this section, ~~["electric"]~~ :

(a) "Customer-generator" has the meaning ascribed to it in NRS 704.768.

(b) "Electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 2.7. NRS 704.741 is hereby amended to read as follows:

704.741 1. A utility which supplies electricity in this State shall, on or before July 1 of every third year, in the manner specified by the Commission, submit a plan to increase its supply of electricity or decrease the demands made on its system by its customers to the Commission.

2. The Commission shall, by regulation:

(a) Prescribe the contents of such a plan, including, but not limited to, the methods or formulas which are used by the utility to:

(1) Forecast the future demands; and

(2) Determine the best combination of sources of supply to meet the demands or the best method to reduce them; and

(b) Designate renewable energy zones and revise the designated renewable energy zones as the Commission deems necessary.

3. The Commission shall require the utility to include in its plan:

(a) An energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel and which includes, without limitation, the use of new solar thermal energy sources. ~~and~~

(b) A comparison of a diverse set of scenarios of the best combination of sources of supply to meet the demands or the best methods to reduce the demands, which must include at least one scenario of low carbon intensity ~~that~~ that includes the deployment of distributed generation.

(c) An analysis of the effects of the requirements of NRS 704.766 to 704.775, inclusive, and section 2.3 of this act on the reliability of the distribution system of the electric utility and the costs to the electric utility to provide electric service to all customers. The analysis must include an evaluation of the costs and benefits of addressing issues of reliability through investment in the distribution system.

4. The Commission shall require the utility to include in its plan a plan for construction or expansion of transmission facilities to serve renewable energy zones and to facilitate the utility in meeting the portfolio standard established by NRS 704.7821.

5. As used in this section:

(a) "Carbon intensity" means the amount of carbon by weight emitted per unit of energy consumed.

(b) "Renewable energy zones" means specific geographic zones where renewable energy resources are sufficient to develop generation capacity and where transmission constrains the delivery of electricity from those resources to customers.

Sec. 2.9. NRS 704.767 is hereby amended to read as follows:

704.767 As used in NRS 704.766 to 704.775, inclusive, and section 2.3 of this act, unless the context otherwise requires, the words and terms defined in NRS 704.7675 to 704.772, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 623.270 is hereby amended to read as follows:

623.270 1. ~~The~~ Except as otherwise provided in subsection 6 of NRS 701.220, the Board may place the holder of any certificate of registration issued pursuant to the provisions of this chapter on probation, publicly reprimand the holder of the certificate, impose a fine of not more than \$10,000 against him or her, suspend or revoke his or her license, impose the costs of investigation and prosecution upon him or her or take any combination of these disciplinary actions for any of the following acts:

(a) The certificate was obtained by fraud or concealment of a material fact.

(b) The holder of the certificate has been found guilty by the Board or found guilty or guilty but mentally ill by a court of justice of any fraud,

deceit or concealment of a material fact in his or her professional practice, or has been convicted by a court of justice of a crime involving moral turpitude.

(c) The holder of the certificate has been found guilty by the Board of incompetency, negligence or gross negligence in:

- (1) The practice of architecture or residential design; or
- (2) His or her practice as a registered interior designer.

(d) The holder of a certificate has affixed his or her signature or seal to plans, drawings, specifications or other instruments of service which have not been prepared by the holder of the certificate or in his or her office, or under his or her responsible control, or has permitted the use of his or her name to assist any person who is not a registered architect, registered interior designer or residential designer to evade any provision of this chapter.

(e) The holder of a certificate has aided or abetted any unauthorized person to practice:

- (1) Architecture or residential design; or
- (2) As a registered interior designer.

(f) The holder of the certificate has violated any law, regulation or code of ethics pertaining to:

- (1) The practice of architecture or residential design; or
- (2) Practice as a registered interior designer.

(g) The holder of a certificate has failed to comply with an order issued by the Board or has failed to cooperate with an investigation conducted by the Board.

2. The conditions for probation imposed pursuant to the provisions of subsection 1 may include, but are not limited to:

- (a) Restriction on the scope of professional practice.
- (b) Peer review.
- (c) Required education or counseling.
- (d) Payment of restitution to each person who suffered harm or loss.

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

4. The Board shall not privately reprimand the holder of any certificate of registration issued pursuant to this chapter.

5. As used in this section:

(a) "Gross negligence" means conduct which demonstrates a reckless disregard of the consequences affecting the life or property of another person.

(b) "Incompetency" means conduct which, in:

- (1) The practice of architecture or residential design; or
- (2) Practice as a registered interior designer,

↪ demonstrates a significant lack of ability, knowledge or fitness to discharge a professional obligation.

(c) "Negligence" means a deviation from the normal standard of professional care exercised generally by other members in:

- (1) The profession of architecture or residential design; or
- (2) Practice as a registered interior designer.

Sec. 4. NRS 625.410 is hereby amended to read as follows:

625.410 ~~[The]~~ *Except as otherwise provided in subsection 6 of NRS 701.220, the Board may take disciplinary action against a licensee, an applicant for licensure, an intern or an applicant for certification as an intern for:*

1. The practice of any fraud or deceit in obtaining or attempting to obtain or renew a license or cheating on any examination required by this chapter.
2. Any gross negligence, incompetency or misconduct in the practice of professional engineering as a professional engineer or in the practice of land surveying as a professional land surveyor.
3. Aiding or abetting any person in the violation of any provision of this chapter or regulation adopted by the Board.
4. Conviction of or entry of a plea of nolo contendere to any crime an essential element of which is dishonesty or which is directly related to the practice of engineering or land surveying.
5. A violation of any provision of this chapter or regulation adopted by the Board.
6. Discipline by another state or territory, the District of Columbia, a foreign country, the Federal Government or any other governmental agency, if at least one of the grounds for discipline is the same or substantially equivalent to any ground contained in this chapter.
7. Practicing after the license of the professional engineer or professional land surveyor has expired or has been suspended or revoked.
8. Failing to comply with an order issued by the Board.
9. Failing to provide requested information within 30 days after receipt of a request by the Board or its investigators concerning a complaint made to the Board.

Sec. 4.5. 1. Each electric utility shall, on or before July 31, 2015, file with the Public Utilities Commission of Nevada a tariff required by section 2.3 of this act and a cost-of-service study.

2. The tariff filed pursuant to subsection 1 must establish the terms and conditions for net metering service for customer-generators who install net metering systems within the service territory of the electric utility on or after the date on which the cumulative capacity requirement of subsection 1 of NRS 704.773 is met. The terms and conditions of service must include, without limitation, the rates the electric utility must charge for providing electric service to customer-generators.

3. The rates included in the terms and conditions of service established pursuant to subsection 2 may include, without limitation:

(a) A basic service charge that reflects marginal fixed costs incurred by the electric utility to provide service to customer-generators;

(b) A demand charge that reflects the marginal demand costs incurred by the electric utility to provide service to customer-generators; and

(c) An energy charge that reflects the marginal energy costs incurred by the electric utility to provide service to customer-generators.

↪ The charges included pursuant to this subsection must adequately reflect the marginal costs of providing service to customer-generators.

4. The Public Utilities Commission of Nevada shall, in accordance with the provisions of section 2.3 of this act, conduct a review of each tariff filed by an electric utility pursuant to subsection 1 and issue a written order approving or disapproving, in whole or in part, the proposed tariff not later than December 31, 2015. The Commission may make modifications to the tariff, including modifications to the rate design and the terms and conditions of net metering services to customer-generators.

5. As used in this section:

(a) "Customer-generator" has the meaning ascribed to it in NRS 704.768.

(b) "Demand costs" means those costs associated with the maximum load requirement of a customer, such as kilowatt or kilo-volt amperes, and which are typically represented by the electric utility's investment in generating units, transmission facilities and the distribution system.

(c) "Electric utility" has the meaning ascribed to it in NRS 704.187.

(d) "Energy costs" means those costs associated with a customer's requirement for a volume of energy, such as fuel and purchased power costs.

(e) "Fixed costs" means those investments and expenses that do not vary with output and which typically reflect the electric utility's investment in back office systems, customer facilities, customer-related expenses and labor costs.

(f) "Net metering" has the meaning ascribed to it in NRS 704.769.

(g) "Net metering system" has the meaning ascribed to it in NRS 704.771.

Sec. 5. This act becomes effective ~~on July 1, 2015.~~ upon passage and approval.

Senator Farley moved the adoption of the amendment.

Remarks by Senator Farley.

Amendment No. 821 makes several changes to Senate Bill No. 374. The amendment: 1) clarifies the ranges for air changes and building codes and prohibits the Director of the Office of Energy and a governing body from requiring air changes outside of those ranges; 2) requires an electric utility to offer a net metering tariff; 3) authorizes the Commission to make the new net metering tariff effective subject to a true-up or refund, if necessary to prevent disruption in the net metering market, interested parties have the ability to comment on the tariff; 4) allows the Commission the flexibility to charge net metering customers time-of-use rates; 5) provides that NV Energy will model in an integrated resource plan (IRP) a scenario that includes distributed generation; 6) adds to the IRP statutes the requirement that the utility conduct an analysis of the impact of net metering on the reliability of the electric system and the cost to provide electric service and that the analysis evaluate the costs and benefits of addressing any reliability issues through investment in the distribution system; 7) requires the electric utility to file a new tariff along with the cost of service study no later than July 31, 2015; 8) requires the new tariff to set the terms and conditions for net metering systems applicable to net metering systems above the existing 3 percent cap; 9) requires that the terms and conditions of service must include the new net metering rates and may include; 10) a three-part rate for customer generators including a basic service charge, a demand charge and an energy charge; 11) the basic service, demand and energy charge must reflect the marginal cost of providing service to a customer; and 12) requires that the Commission has until December 31, 2015, to finalize the tariff and has the ability to modify or adjust the tariff. The amendment changes the effective date of the bill to upon passage and approval.

Amendment adopted.

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

Senate Bill No. 89.

Bill read third time.

Remarks by Senator Kieckhefer.

Senate Bill No. 89 authorizes the Division of Environmental Protection of the State Department of Conservation and Natural Resources to expend up to \$2 million per fiscal year from the Fund for the Cleanup of Discharges in the State involving petroleum or petrochemical. The Interim Finance Committee may approve the expenditure of more than \$2 million from the Fund in a fiscal year to pay for the costs of cleaning up such discharges. In addition, Senate Bill No. 89 requires the person responsible for a discharge of a petrochemical to reimburse the Division for the person's share of the costs of cleaning up the discharge. Finally, this bill defines the term "petrochemical." Senate Bill No. 89 becomes effective upon passage and approval.

Roll call on Senate Bill No. 89:

YEAS—19.

NAYS—None.

EXCUSED—Denis, Smith—2.

Senate Bill No. 89 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 206.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 774.

SUMMARY—Revises provisions relating to organ donation.
(BDR 43-215)

AN ACT relating to anatomical gifts; revising provisions governing the election by the holder of a driver's license, a driver authorization card or an identification card as to whether the holder wishes to be a donor of all or part of his or her body; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, upon the issuance and renewal of a driver's license or an identification card issued by the Department of Motor Vehicles, the Department is required to give the holder of the driver's license or identification card the opportunity to have indicated on the license or card that the holder wishes to be a donor of all or part of his or her body, or to refuse to make an anatomical gift of his or her body or part thereof. (NRS 483.340, 483.840) Sections 1 and 2 of this bill provide that, upon the issuance of a driver's license or identification card, the Department is required to give the holder the opportunity to have indicated on his or her driver's license or identification card that the holder wishes to be a donor, or does not at this time wish to be a donor. Sections 1 and 2 also provide that upon the renewal of a driver's license or identification card the Department is required to give a holder who indicated at the issuance of the license or card that he or she wished to be a donor notice that, unless the holder

affirmatively indicates upon renewal that he or she wishes to change that indication, the indication will remain on his or her driver's license or identification card. For a holder who indicated at the issuance of his or her driver's license or identification card that the holder did not at that time wish to be a donor, the Department is required to give the holder an opportunity to change that indication to indicate that the holder wishes to be a donor. Existing law deems certain provisions relating to drivers' licenses, including the provisions amended by this bill, applicable also to driver authorization cards and certain instruction permits. (NRS 483.291) Thus, the provisions of section 2 are applicable to such cards and permits. Sections 4.5 and 5 of this bill provide that this bill becomes effective upon passage and approval for preparatory administrative tasks and for all other purposes when the Director of the Department has determined that sufficient resources are available to enable the Department to carry out the provisions of this bill and the Director has thereafter made specified notifications.

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

Section 1. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive.

2. The Department shall adopt regulations prescribing the information that must be contained on a driver's license.

3. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations, criminal investigators employed by the Secretary of State while engaged in undercover investigations and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General, the Secretary of State or his or her designee or the Chair of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.

4. Except as otherwise provided in NRS 239.0115, information pertaining to the issuance of a driver's license pursuant to subsection 3 is confidential.

5. It is unlawful for any person to use a driver's license issued pursuant to subsection 3 for any purpose other than the special investigation for which it was issued.

6. At the time of the issuance ~~[or renewal]~~ of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his or her driver's license that the holder ~~[wishes]~~ :

(1) *Wishes* to be a donor of all or part of his or her body pursuant to NRS 451.500 to 451.598, inclusive ; ~~[]~~ or ~~[to refuse]~~

(2) *Does not at that time wish* to make an anatomical gift of his or her body or part thereof.

(b) Give the holder the opportunity to have indicated whether he or she wishes to donate \$1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.

(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his or her driver's license.

7. *At the time of the renewal of the driver's license, the Department shall:*

(a) If the holder indicated at the time of the issuance of the driver's license pursuant to subsection 6 that the holder wishes to be a donor of all or part of his or her body pursuant to NRS 451.500 to 451.598, inclusive, provide the holder:

(1) Notice that, unless the holder affirmatively indicates upon the renewal of the driver's license that he or she wishes to change that indication, the indication will remain on his or her driver's license;

(2) The opportunity to have indicated whether he or she wishes to donate \$1 or more to the Anatomical Gift Account created by NRS 460.150; and

(3) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, the opportunity to have a symbol or other indicator of a medical condition imprinted on his or her driver's license.

(b) If the holder indicated at the time of the issuance of the driver's license pursuant to subsection 6 that the holder did not at that time wish to be a donor of all or part of his or her body pursuant to NRS 451.500 to 451.598, inclusive, provide the holder:

(1) *The opportunity to change that indication to indicate that the holder wishes to be a donor of all or part of his or her body pursuant to NRS 451.500 to 451.598, inclusive;*

(2) *The opportunity to have indicated whether he or she wishes to donate \$1 or more to the Anatomical Gift Account created by NRS 460.150;*

(3) *If the holder is interested in becoming a donor, information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this section; and*

(4) *If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, the opportunity to have a symbol or other indicator of a medical condition imprinted on his or her driver's license.*

8. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

~~{8.}~~ 9. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 6 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 2. NRS 483.840 is hereby amended to read as follows:

483.840 1. The form of the identification cards must be similar to that of drivers' licenses but distinguishable in color or otherwise.

2. Identification cards do not authorize the operation of any motor vehicles.

3. The Department shall adopt regulations prescribing the information that must be contained on an identification card.

4. At the time of the issuance ~~{or renewal}~~ of the identification card, the Department shall:

(a) Give the holder the opportunity to have indicated on his or her identification card that the holder ~~{wishes}~~ :

(1) *Wishes to be a donor of all or part of his or her body pursuant to NRS 451.500 to 451.598, inclusive ;* ~~{;} or {to refuse}~~

(2) *Does not at that time wish to make an anatomical gift of his or her body or part thereof.*

(b) Give the holder the opportunity to indicate whether he or she wishes to donate \$1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter

into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.

(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on an identification card pursuant to NRS 483.863, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his or her identification card.

5. *At the time of the renewal of the identification card, the Department shall:*

(a) If the holder indicated at the time of the issuance of the identification card pursuant to subsection 4 that the holder wishes to be a donor of all or part of his or her body pursuant to NRS 451.500 to 451.598, inclusive, provide the holder:

(1) Notice that, unless the holder affirmatively indicates upon the renewal of the identification card that he or she wishes to change that indication, the indication will remain on his or her identification card;

(2) The opportunity to have indicated whether he or she wishes to donate \$1 or more to the Anatomical Gift Account created by NRS 460.150; and

(3) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on an identification card pursuant to NRS 483.3485, the opportunity to have a symbol or other indicator of a medical condition imprinted on his or her identification card.

(b) If the holder indicated at the time of the issuance of the identification card pursuant to subsection 4 that the holder did not at that time wish to be a donor of all or part of his or her body pursuant to NRS 451.500 to 451.598, inclusive, provide the holder:

(1) The opportunity to change that indication to indicate that the holder wishes to be a donor of all or part of his or her body pursuant to NRS 451.500 to 451.598, inclusive;

(2) The opportunity to have indicated whether he or she wishes to donate \$1 or more to the Anatomical Gift Account created by NRS 460.150;

(3) If the holder is interested in becoming a donor, information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this section; and

(4) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on an identification card pursuant to NRS 483.3485, the opportunity to have a symbol or other indicator of a medical condition imprinted on his or her identification card.

6. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

~~{6.}~~ 7. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 4 information from the records of the Department relating to

persons who have identification cards issued by the Department that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 4.5. As soon as practicable, upon determining that sufficient resources are available to enable the Department of Motor Vehicles to carry out the amendatory provisions of this act, the Director of the Department shall notify the Governor and the Director of the Legislative Counsel Bureau of that fact, and shall publish on the Internet website of the Department notice to the public of that fact.

Sec. 5. This act becomes effective:

1. Upon passage and approval for the purposes of adopting any regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

2. ~~On January 1, 2016, for~~ For all other purposes ~~for~~, on the date on which the Director of the Department of Motor Vehicles, pursuant to section 4.5 of this act, notifies the Governor and the Director of the Legislative Counsel Bureau that sufficient resources are available to enable the Department to carry out the amendatory provisions of this act.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

This amendment to Senate Bill No. 206 changes the effective date of the bill and ensures that the DMV is only required to make the appropriate changes that are outlined in this bill when resources become available.

Amendment adopted.

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

Senate Bill No. 456.

Bill read third time.

Remarks by Senator Kieckhefer.

Senate Bill No. 456 urges the Attorney General to take a leadership role in pursuing actions on behalf of the State and counties in formalizing and finalizing title to accessory roads and public roads. The bill authorizes the Attorney General to participate as a party in a quiet title action regarding such roads under certain circumstances and in cooperation with or on behalf of the county or counties in which the road lies.

In addition, the Attorney General, the Land Use Planning Advisory Council and the Nevada Association of Counties must work together to develop and implement a legal protocol that a county may use to perfect its rights to and finalize title to an accessory or public road.

The bill becomes effective on July 1, 2015. The bill further requires the Attorney General, the Land Use Planning Advisory Council and the Nevada Association of Counties to work cooperatively to develop the required protocol as soon as practicable after July 1, 2015.

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

Motion carried.

Senate in recess at 4:16 p.m.

SENATE IN SESSION

At 4:17 p.m.

President pro Tempore Hardy presiding.

Quorum present.

Roll call on Senate Bill No. 456:

YEAS—19.

NAYS—None.

EXCUSED—Denis, Smith—2.

Senate Bill No. 456 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 4.

Bill read third time.

Remarks by Senator Settelmeyer.

Assembly Bill No. 4 allows a winery in any county in Nevada to import wine or juice for fermentation, mixing with other wine or aging in this State, sell wine at retail or serve wine or any other alcoholic beverage by the glass on its premises. The measure allows a winery licensed on or before the bill's effective date to sell or serve its wine and other alcoholic beverages at the location of the winery and one other location. The amount of wine sold at the second location may not exceed 50 percent of the total wine sold by the winery. Wineries licensed subsequent to the bill's passage will not be allowed to sell at a second location and will not be allowed to serve alcoholic beverages.

The bill also restricts the amount of wine that may be sold at retail or served by the glass by a winery using less than 25 percent of grapes grown within the State to no more than 1,000 cases in any calendar year. Wineries licensed on or before the effective date of this bill will have ten years to come into compliance with this restriction. Finally, Assembly Bill No. 4 prohibits a winemaker licensee from retailing alcoholic beverages or producing wine on the premises of another winery and allows the State Board of Agriculture to adopt regulations necessary and consistent with federal law regarding wine labeling.

The bill is effective on October 1, 2015.

Roll call on Assembly Bill No. 4:

YEAS—19.

NAYS—None.

EXCUSED—Denis, Smith—2.

Assembly Bill No. 4 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 6.

Bill read third time.

Remarks by Senator Harris.

Assembly Bill No. 6 removes references to "certified autism behavior interventionists" throughout various sections of *Nevada Revised Statutes* regulating such professionals, instead providing for the credentialing and regulation of Registered Behavior Technicians. The bill also changes statutory references of "behavior therapy" to "behavioral therapy." Finally, the measure increases the minimum coverage which must be provided by certain insurers for applied behavioral analysis treatment to the actuarial equivalent of \$72,000.

The provisions of the bill relating to increasing coverage for applied behavioral analysis treatment apply only to health plans delivered, issued or renewed on or after January 1, 2017. The remaining provisions are effective upon passage and approval.

Roll call on Assembly Bill No. 6:

YEAS—19.

NAYS—None.

EXCUSED—Denis, Smith—2.

Assembly Bill No. 6 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 15.

Bill read third time.

Remarks by Senator Goicoechea.

Assembly Bill No. 15 creates the Account for the Protection and Rehabilitation of the Stewart Indian School in the State General Fund. The Account is to be administered by the Director of the State Department of Conservation and Natural Resources for the purposes of repairing and maintaining the historic State buildings and grounds of the Stewart Indian School. The bill authorizes the Administrator of the Division of State Lands to make a direct sale of two parcels of State land for the purpose of funding the Account. This bill is effective upon passage and approval.

Roll call on Assembly Bill No. 15:

YEAS—19.

NAYS—None.

EXCUSED—Denis, Smith—2.

Assembly Bill No. 15 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 24.

Bill read third time.

Remarks by Senator Settlemeyer.

Assembly Bill No. 24 allows the State to deduct from the officer's or employee's paycheck any amounts required to pay off a delinquent balance on a State-issued travel charge card that has not been paid by the officer or employee or to pay an amount deducted from or offset against any rebate issued to the State by the issuer of the charge card related to the delinquent balance. This bill is effective on October 1, 2015.

Roll call on Assembly Bill No. 24:

YEAS—19.

NAYS—None.

EXCUSED—Denis, Smith—2.

Assembly Bill No. 24 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 43.

Bill read third time.

Remarks by Senator Parks.

Assembly Bill No. 43 makes various changes to provisions governing public works projects. The bill provides that instead of certain documents or other information submitted to the Department of Transportation by a person seeking a contract for a design-build project or a transportation facility project remaining confidential until the contract is awarded, they remain confidential only until a notice of intent to award the contract is issued. Similarly, this bill provides that certain documents or other information submitted to a public body by a construction manager at risk seeking a contract with a public body for a public works project are confidential only until a notice of intent to award the contract is issued. A public body or its authorized representative is required to make certain information determined by a panel that ranked the proposals and a separate panel that conducted the interviews of the selected applicants available to all applicants and the public.

Assembly Bill No. 43 also adds certain documents and other information to the list of public books and records of a governmental entity that are declared confidential. The bill clarifies that if a public book or record is declared by law to be open to the public, such a declaration does not imply, and must not be construed to mean, that a public book or record is confidential if it is not declared by law to be open to the public and is not otherwise declared by law to be confidential.

This bill is effective upon passage and approval. Provisions concerning information provided by construction managers at risk and from panels ranking proposals and conducting interviews expire by limitation on June 30, 2017.

Roll call on Assembly Bill No. 43:

YEAS—19.

NAYS—None.

EXCUSED—Denis, Smith—2.

Assembly Bill No. 43 having received a constitutional majority, Mr. President pro Tempore declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Roberson moved that Assembly Bill No. 176 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Roberson moved that Assembly Bills Nos. 53, 54, 59, 60, 62, 65, 88, 97, 101, 106, 108, 112, 124, 130, 136, 143, 151, 153, 156, 160, 162, 189, 192, 195, 200, 204, 212, 223, 224, 227, 231, 236, 246, 251, 252, 267, 268, 270, 273, 285, 287, 292, 301, 308, 324, 377, 384, 419, 422, 449, 454, 460; Assembly Joint Resolution No. 1 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 312.

The following Assembly amendment was read.

Amendment No. 681.

SUMMARY—Revises provisions relating to certain taxes. (BDR 21-834)

AN ACT relating to taxing districts; ~~requiring~~ imposing, in a city that has created a taxing district to improve and maintain publicly owned facilities for tourism and entertainment, ~~to impose,~~ in addition to any other surcharge, a

surcharge on the per night charge for the rental of a room in a hotel in the district other than a hotel that holds a nonrestricted gaming license; ~~requiring~~ imposing, in a city that has created such a taxing district, ~~to impose,~~ in addition to any other surcharge, ~~an~~ an additional surcharge on the per night charge for the rental of a room in a hotel in the district ~~that holds a non-restricted gaming license;~~ providing that the ~~money collected from the~~ surcharges must be collected and used by ~~the city or~~ the county fair and recreation board, ~~as applicable,~~ only for specified purposes; creating in a county in which is located a city that has created a taxing district to improve and maintain publicly owned facilities for tourism and entertainment a district for the promotion of tourism comprised of certain property within the county, including property located within any city in the county, other than property located in the district created by the city; requiring the board of county commissioners of the county to prescribe the boundaries of the district ~~and impose~~; imposing a surcharge on the per night charge for the rental of a room in a hotel in the district; providing that the money collected from the surcharge must be collected and used by ~~the county or~~ the county fair and recreation board, ~~as applicable,~~ only for specified purposes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the governing body of a city whose population is 220,000 or more in a county whose population is 100,000 or more but less than 700,000 (currently only the City of Reno) by ordinance to create a district to finance capital projects necessary to improve and maintain publicly owned facilities for tourism and entertainment. Existing law requires that such an ordinance be approved by a two-thirds majority of the members of the governing body. Existing law also requires that the ordinance impose a surcharge of \$2 on the per night charge for the rental of a room in a hotel in the district that holds a non-restricted gaming license and provides that the proceeds of the surcharge must be used by the city solely to pay the cost of improving and maintaining publicly owned facilities for tourism and entertainment in the district or within 1 mile outside the boundaries of the district, except for a minor league baseball stadium. (NRS 268.798)

Section 1.3 of this bill ~~requires the governing body of~~ imposes, in a city that has created a district to finance capital projects necessary to improve and maintain publicly owned facilities for tourism and entertainment, ~~to impose~~ a surcharge of \$2 on the per night charge for the rental of a room in a hotel in the district, other than a hotel that holds a non-restricted gaming license. Section 1.5 of this bill ~~requires the governing body of~~ imposes, in a city that has created such a district, ~~to impose~~ an additional surcharge of \$1 on the per night charge for the rental of a room in a hotel in the district. ~~If the city is located in a county in which a county fair and recreation board has been created, sections 1.3 and 1.5 require the city to transfer to the county fair and recreation board any money collected from the surcharges imposed pursuant to those sections. If a county fair and recreation board has~~

~~not been created, sections]~~ that holds a nonrestricted gaming license. Sections 1.3 and 1.5 require the ~~[city to keep the money collected from]~~ county fair and recreation board to collect the surcharges and expend the money only for ~~[certain purposes relating to the promotion of tourism.]~~ the purposes authorized by section 4.5 of this bill.

In any county in which is located a city that has created a district to finance capital projects necessary to improve and maintain publicly owned facilities for tourism and entertainment, section 4 of this bill creates a district for the promotion of tourism in the region. Section 4 also requires the board of county commissioners to adopt an ordinance prescribing the boundaries of the district, which must include within its boundaries all property: (1) which is located in the county and located in any city in the county other than property that is located within a district created by a city to finance capital projects necessary to improve and maintain publicly owned facilities for tourism and entertainment; and (2) which is located not more than 20 miles from the boundaries of any such district created by a city. Section 4 imposes a ~~[\$3]~~ \$2 surcharge on the per night charge for the rental of a room in a hotel in the district and requires ~~[the board of county commissioners to transfer the money collected from the surcharge to]~~ the county fair and recreation board ~~[, if a county fair and recreation board has been created in the county. If a county fair and recreation board has not been created, section 4 requires the board of county commissioners to keep the money and prescribes the purposes for which the board of county commissioners may]~~ to collect the surcharge and expend the money ~~[,]~~ only for the purposes authorized by section 4.5.

Section 4.5 ~~[of this bill]~~ requires a county fair and recreation board that ~~[receives]~~ collects any money from the surcharge imposed ~~[pursuant to]~~ by section 1.3, 1.5 or 4 to create an account into which all such money must be deposited. Section 4.5 authorizes the board to expend the money to implement a strategic plan for the promotion of tourism in the region. Section 4.5 also requires the board, every 5 years, to prepare and submit to the Legislature a report concerning the expenditure by the board of any money received from the surcharge imposed ~~[pursuant to]~~ by sections 1.3, 1.5 and 4.

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

Section 1. Chapter 268 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.5 of this act.

Sec. 1.3. 1. *In a city in which a district is created and a surcharge is imposed pursuant to NRS 268.798, ~~[the governing body shall, in addition to the surcharge imposed pursuant to that section and section 1.5 of this act, impose]~~ there is hereby imposed a surcharge of \$2 on the per night charge for the rental of a room in a hotel in the district other than a hotel that holds a nonrestricted gaming license. The surcharge must not be applied for any time during which the room is provided to a guest free of charge.*

2. The proceeds of the surcharge imposed ~~[pursuant to]~~ by this section must be collected by the ~~city and:~~

~~—(a) If the city is located in a county in which a] county fair and recreation board [has been created pursuant to NRS 244A.597 to 244A.655, inclusive, the city shall transfer to the county fair and recreation board all money collected from the surcharge imposed pursuant to this section.] created by NRS 244A.601 in accordance with the provisions of section 4.5 of this act. The money must be deposited in the account created pursuant to section 4.5 of this act and used only for the purposes set forth in that section.~~

~~—(b) If the city is located in a county in which a county fair and recreation board has not been created, the money collected must be retained by the city, accounted for separately and, except as otherwise provided in subsection 2, used solely to pay the costs for:~~

~~—(1) The acquisition, construction and maintenance of public recreational facilities located in the district;~~

~~—(2) Advertising, publicizing and promoting the public recreational facilities located in the district; and~~

~~—(3) Projects designed to encourage tourism or to improve access by tourists to airports located in the county in which the district is located.]~~

3. The proceeds of the surcharge and any interest or income earned on such money may not be used for the purposes of promoting or marketing professional bowling.

4. ~~[Except as otherwise provided in paragraph (a) of subsection 2, the proceeds of the surcharge must not be transferred to any other fund or account or used for any other purpose.] As used in this section, "hotel" has the meaning ascribed to it in section 3.75 of this act.~~

Sec. 1.5. 1. In a city in which a district is created and a surcharge is imposed pursuant to NRS 268.798, ~~[the governing body shall,]~~ in addition to the surcharge imposed pursuant to that section ~~[and section 1.3 of this act, impose]~~, there is hereby imposed a surcharge of \$1 on the per night charge for the rental of a room in a hotel in the district ~~[.]~~ that holds a nonrestricted gaming license. The surcharge must not be applied for any time during which the room is provided to a guest free of charge.

2. The proceeds of the surcharge imposed pursuant to this section must be collected by the ~~city and:~~

~~—(a) If the city is located in a county in which a] county fair and recreation board [has been created pursuant to NRS 244A.597 to 244A.655, inclusive, the city shall transfer to the county fair and recreation board all money collected from the surcharge imposed pursuant to this section.] created by NRS 244A.601 in accordance with the provisions of section 4.5 of this act. The money must be deposited in the account created pursuant to section 4.5 of this act and used only for the purposes set forth in that section.~~

~~—(b) If the city is located in a county in which a county fair and recreation board has not been created, the money collected must be retained by the city;~~

~~accounted for separately and, except as otherwise provided in subsection 3, used solely to pay the costs for:~~

~~(1) The acquisition, construction and maintenance of public recreational facilities located in the district;~~

~~(2) Advertising, publicizing and promoting the public recreational facilities located in the district; and~~

~~(3) Projects designed to encourage tourism or to improve access by tourists to airports located in the county in which the district is located.]~~

3. The proceeds of the surcharge and any interest or income earned on such money may not be used for the purposes of promoting or marketing professional bowling.

4. ~~[Except as otherwise provided in paragraph (a) of subsection 2, the proceeds of the surcharge must not be transferred to any other fund or account or used for any other purpose.]~~ As used in this section, "hotel" has the meaning ascribed to it in section 3.75 of this act.

Sec. 2. ~~[NRS 268.798 is hereby amended to read as follows:~~

~~268.798 1. The governing body of a city whose population is 220,000 or more in a county whose population is 100,000 or more but less than 700,000 may by ordinance create a district to finance capital projects necessary to improve and maintain publicly owned facilities for tourism and entertainment. Such an ordinance must be approved by a two-thirds majority of the members of the governing body.~~

~~2. The boundaries of a district created pursuant to subsection 1 must be as prescribed by the governing body in the ordinance creating the district, except that the boundaries must include only property that is located in or within 4 city blocks, as determined by the governing body, of a district described in NRS 268.780 to 268.785, inclusive.~~

~~3. An ordinance enacted pursuant to subsection 1 must impose a surcharge of \$2 on the per night charge for the rental of a room in a hotel in the district that holds a nonrestricted gaming license. The surcharge must not be applied for any time during which the room is provided to a guest free of charge.~~

~~4. The proceeds of the surcharge imposed pursuant to this section must be retained by the city and must be used by the city solely to pay the cost of improving and maintaining publicly owned facilities for tourism and entertainment in the district or within 1 mile outside the boundaries of the district, except for a minor league baseball stadium project as defined in NRS 244A.0344. The proceeds of the surcharge must not be transferred to any other fund or account or used for any other purpose.~~

~~5. On or before January 15, 2030, the governing body of a city that has created a district pursuant to this section shall submit a report concerning the district to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must:~~

~~(a) Address, without limitation [, the]—~~

~~(1) The total amount collected from the surcharge imposed pursuant to this section and all the projects undertaken to improve and maintain the publicly owned facilities for tourism and entertainment in the district.~~

~~(2) The total amount collected from the surcharges imposed by sections 1.3 and 1.5 of this act and, if applicable, expended by the city for the purposes authorized by those sections.~~

~~(b) Cover the period between the creation of the district until the end of the calendar year immediately preceding the submission of the report.]~~
(Deleted by amendment.)

Sec. 3. NRS 244.3359 is hereby amended to read as follows:

244.3359 1. A county whose population is 700,000 or more shall not impose a new tax on the rental of transient lodging or increase the rate of an existing tax on the rental of transient lodging after March 25, 1991, except pursuant to NRS 244.3351, 244.3352 and 244.33561.

2. A county whose population is 100,000 or more but less than 700,000 shall not impose a new tax on the rental of transient lodging or increase the rate of an existing tax on the rental of transient lodging after March 25, 1991, except pursuant to NRS 244.33561 ~~[-]~~ and section 4 of this act.

3. Except as otherwise provided in subsection 2 and NRS 387.191, the Legislature hereby declares that the limitation imposed by subsection 2 will not be repealed or amended except to allow the imposition of an increase in such a tax for the promotion of tourism or for the construction or operation of tourism facilities by a convention and visitors authority.

Sec. 3.5. Chapter 244A of NRS is hereby amended by adding thereto the provisions set forth in sections 3.75, 4 and 4.5 of this act.

Sec. 3.75. As used in this section and sections 4 and 4.5 of this act, unless the context otherwise requires, "hotel" means a building occupied or intended to be occupied for compensation, as the temporary residence for transient guests, primarily persons who have residence elsewhere. A hotel has an interior hall and lobby with access to each room from the interior hall or lobby.

Sec. 4. 1. In a county in which is located a city that has created a district and imposed a surcharge pursuant to NRS 268.798, there is hereby:

(a) Created a district for the promotion of tourism; and

(b) Imposed a surcharge of ~~[\$3]~~ \$2 on the per night charge for the rental of a room in a hotel in the district. The surcharge must not be applied for any time during which the room is provided to a guest free of charge.

2. As soon as practicable on or after July 1, 2015, but on or before October 1, 2015, the board of county commissioners shall adopt an ordinance ~~f-~~

~~(a) Prescribing]~~ prescribing the boundaries of the district created by paragraph (a) of subsection 1, which:

~~[(1)]~~ (a) Must include within it all property within the county and within each city in the county that is:

~~[(1)]~~ (1) Not located within a district created pursuant to NRS 268.798; and

~~[(1)]~~ (2) Located not more than 20 miles from the boundaries of a district created pursuant to NRS 268.798; and

~~[(2)]~~ (b) Must not include within it any property located within a district created pursuant to NRS 268.798. ~~f. and~~

~~(b) Prescribing a schedule for the collection of the surcharge imposed by paragraph (b) of subsection 1.]~~

3. The surcharge imposed by this section is in addition to any other license fee, tax or surcharge imposed on the revenues from the rental of transient lodging. The surcharge must be collected by the ~~county in~~ accordance with the schedule prescribed by the ordinance adopted pursuant to subsection 2 and:

~~(a) If the board of county commissioners has created a] county fair and recreation board [pursuant to NRS 244A.597 to 244A.655, inclusive, the county shall transfer to the county fair and recreation board all money collected from the surcharge imposed pursuant to this section.] in accordance with the provisions of section 4.5 of this act. The money must be deposited in the account created pursuant to section 4.5 of this act and used only for the purposes set forth in that section.~~

~~(b) If the board of county commissioners has not created a county fair and recreation board, the money collected from the surcharge imposed pursuant to this section must be retained by the county, accounted for separately and, except as otherwise provided in this paragraph, used solely to pay the costs for:~~

~~(1) The acquisition, construction and maintenance of public recreational facilities located in the district;~~

~~(2) Advertising, publicizing and promoting the public recreational facilities located in the district; and~~

~~(3) Projects designed to encourage tourism or to improve access by tourists to airports located in the county in which the district is located.~~

~~→.]~~

4. The proceeds of the surcharge and any interest or income earned on such money may not be used for the purposes of promoting or marketing professional bowling.

~~4. Except as otherwise provided in paragraph (a) of subsection 3, the proceeds of the surcharge imposed by this section must not be transferred to any other fund or account or used for any other purpose other than the purposes specified in subsection 3.~~

~~5. The ordinance adopted by the board of county commissioners must provide that if the surcharge imposed by this section is not paid within the time set forth in the schedule for payment, the county shall charge and collect in addition to the surcharge:~~

~~(a) A penalty of not more than 10 percent of the amount due, exclusive of interest, or an administrative fee established by the board of county commissioners, whichever is greater, and~~

~~(b) Interest on the amount due at the rate of not more than 1.5 percent per month or fraction thereof from the date on which the surcharge became due until the date of payment.]~~

Sec. 4.5. 1. A county fair and recreation board that ~~receives~~ collects any proceeds of the surcharges imposed ~~pursuant to~~ by section 1.3, 1.5 or 4 of this act ~~shall~~ :

(a) Shall create an account administered by the board and deposit into such account all proceeds ~~received~~ collected by the board from the surcharges imposed ~~pursuant to~~ by sections 1.3, 1.5 and 4 of this act. The money in the account, including any interest and income earned on such money, must not be transferred to any other fund or account or used for any purpose other than the purposes set forth in subsection 2.

(b) Shall prescribe a procedure for the collection of the surcharges imposed by sections 1.3, 1.5 and 4 of this act, which may include, without limitation, procedures for the enforcement of the collection of any delinquent surcharges and the provision of penalties in connection therewith, including, without limitation, the suspension of the business license issued by a county, city or town to a hotel and the closure of a hotel for failure to pay any surcharge imposed by section 1.3, 1.5 or 4 of this act.

(c) May adopt rules and regulations concerning the collection and administration of the surcharges imposed by sections 1.3, 1.5 and 4 of this act and provide penalties for the failure to comply therewith.

2. All money ~~received~~ collected by a county fair and recreation board from the proceeds of the surcharges imposed ~~pursuant to~~ by sections 1.3, 1.5 and 4 of this act must be used to implement a strategic plan for the promotion of tourism in the region. The strategic plan:

(a) Except as otherwise provided in paragraph (b), may provide for the expenditure of any money received from the proceeds of the surcharges imposed ~~pursuant to~~ by sections 1.3, 1.5 and 4 of this act:

(1) For the purposes set forth in NRS 244A.597.

(2) For the maintenance of public recreational facilities located in the county which are owned by the county or an incorporated city in the county or under the control of the county fair and recreation board.

(3) To carry out projects designed to encourage tourism or to improve access by tourists to airports located in the county.

(4) To solicit and promote tourism, gaming and the use of public recreational facilities of the community or area, which may include advertising the facilities under the control of the county fair and recreation board and the resources of the community or area, including tourist accommodations, transportation, entertainment, gaming and climate. Such advertising may be done jointly with a private enterprise. The county fair and recreation board may enter into contracts for advertising pursuant to this

subparagraph and pay the cost of the advertising, including a reasonable commission.

(5) For any other purpose identified in the strategic plan.

(b) May not provide for the expenditure of any money received from the proceeds of the surcharges imposed ~~pursuant to~~ by sections 1.3, 1.5 and 4 of this act for the operational expenses of the county fair and recreation board or for the purposes of promoting or marketing professional bowling.

3. On or before January 15, 2021, and on or before January 15 of each fifth year thereafter, a county fair and recreation board that ~~receives~~ collects any money from the surcharge imposed and collected pursuant to section 1.3, 1.5 or 4 of this act shall prepare and submit to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature a written report which must:

(a) Address, without limitation, the total amount ~~received~~ collected from the surcharges imposed ~~pursuant to~~ by sections 1.3, 1.5 and 4 of this act;

(b) Address, without limitation, the total amount expended by the board to carry out the purposes set forth in this section; and

(c) Cover the 5-year period immediately preceding the submission of the report.

Sec. 5. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 6. This act becomes effective on July 1, 2015.

Senator Goicoechea moved that the Senate concur in Assembly Amendment No. 681 to Senate Bill No. 312.

Remarks by Senator Goicoechea.

Assembly Amendment No. 681 to Senate Bill No. 312: clarifies that a proposed \$1 per room-night surcharge is for hotels that hold a non-restricted gaming license; reduces a separate surcharge on all hotels from \$3 to \$2 per room-night; and directs a county fair and recreation board to prescribe a procedure for the collection and enforcement of surcharges. I urge your concurrence.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President pro Tempore and Secretary signed Senate Bills Nos. 3, 9, 96, 124, 131, 135, 147, 186, 191, 212.

Senator Roberson moved that the Senate adjourn until Sunday, May 17, 2015, at 2:00 p.m.

Motion carried.

Senate adjourned at 4:32 p.m.

Approved:

JOSEPH P. HARDY
President pro Tempore of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate