

THE ONE HUNDRED AND SECOND DAY

CARSON CITY (Thursday), May 18, 2017

Assembly called to order at 12:39 p.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Chad Adamik.

The following is a prayer attributed to Saint Francis of Assisi:

Lord, make me an instrument of Your peace: where there is hatred, let me sow love; where there is injury, pardon; where there is doubt, faith; where there is despair, hope; where there is darkness, light; where there is sadness, joy.

O divine Master, grant that I may not so much seek to be consoled as to console, to be understood as to understand, to be loved as to love. For it is in giving that we receive, it is in pardoning that we are pardoned, and it is in dying that we are born to eternal life. Amen.

Pledge of allegiance to the Flag.

Assemblywoman Benitez-Thompson moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 150, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce and Labor, to which was referred Senate Bill No. 162, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

IRENE BUSTAMANTE ADAMS, *Chair*

Mr. Speaker:

Your Committee on Corrections, Parole, and Probation, to which was referred Senate Bill No. 393, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JAMES OHRENSCHALL, *Chair*

Mr. Speaker:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 38, 375, 400, 434, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

EDGAR FLORES, *Chair*

Mr. Speaker:

Your Committee on Health and Human Services, to which were referred Assembly Bill No. 374; Senate Bill No. 59, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Health and Human Services, to which was referred Senate Bill No. 480, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Health and Human Services, to which was referred Senate Bill No. 163, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL C. SPRINKLE, *Chair*

Mr. Speaker:

Your Committee on Judiciary, to which was referred Senate Bill No. 258, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

STEVE YEAGER, *Chair*

Mr. Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 494, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 17, 2017

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 34, 60, 65, 70, 89, 114, 128, 136, 165, 173, 180, 190, 195, 199, 228, 229, 231, 232, 245, 271, 310, 316, 317, 335, 392, 393, 435, 438, 445, 459, 465, 466; Assembly Joint Resolutions Nos. 7, 9, 10, 13; Senate Bills Nos. 106, 525, 526; Senate Joint Resolution No. 14.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 57, Amendment No. 677; Assembly Bill No. 214, Amendment No. 671; Assembly Bill No. 255, Amendment No. 737, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 516.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 519; Senate Joint Resolution No. 11.

SHERRY Rodriguez
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

May 17, 2017

Pursuant to paragraph (a) of subsection 4 of Joint Standing Rule No. 14.6, Assembly Bill No. 396 is not subject to the provisions of subsection 1 of Joint Standing Rule No. 14, Joint Standing Rule No. 14.1, subsection 1 of Joint Standing Rule No. 14.2 and Joint Standing Rule No. 14.3.

RICHARD S. COMBS
Director

Senate Joint Resolution No. 11.

Assemblywoman Benitez-Thompson moved that the resolution be referred to the Committee on Legislative Operations and Election.

Motion carried.

Senate Joint Resolution No. 14.

Assemblywoman Benitez-Thompson moved that the resolution be referred to the Committee on Taxation.

Motion carried

Assemblywoman Benitez-Thompson moved that Senate Bills Nos. 236 and 442 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 471; Senate Bills Nos. 311, 322, 324, and 384 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 181 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblywoman Benitez-Thompson moved that Senate Bills Nos. 116, 230, 268, 369, and 386 be taken from their positions on the General File and placed at the bottom of the General File.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 106.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 516.

Assemblywoman Bustamante Adams moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 519.

Assemblywoman Carlton moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 525.

Assemblywoman Carlton moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 526.

Assemblywoman Carlton moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 183.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 685.

AN ACT relating to hospitals; ~~restricting the enforcement by a hospital of certain statutory liens;~~ **limiting the amount that a hospital may collect or attempt to collect from a patient or other responsible party under certain circumstances; establishing provisions relating to statutory liens on a judgment or settlement; requiring a hospital to provide notice of intent to file such a lien in certain circumstances; providing for an award of damages for improperly asserting or perfecting such a lien;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[A hospital has statutory liens for any amount due to the hospital for the reasonable value of the care rendered to a patient. The liens apply to any award of damages or settlement obtained by the patient or the patient's personal representative from a person responsible for the injury causing the hospitalization or, in the case of a county or district hospital, any real property of the patient or other responsible party. (NRS 108.590, 108.662) If a hospital provides care to a person who is covered by a policy of health insurance or may be eligible for coverage under Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the hospital bill, existing law generally requires the hospital to submit its bill to the insurer or public program and await a determination concerning payment of the bill before proceeding with any efforts to collect the bill from the patient or other responsible party. (NRS 449.757) Section 1 of this bill provides that the hospital is likewise barred during this period from asserting, perfecting, foreclosing or otherwise enforcing its statutory liens.]~~

Existing law ~~additionally~~ limits the collection rights of a hospital if a patient is covered by a policy of health insurance issued by a third party and the hospital has a contract with that party. The hospital may not collect or attempt to collect its charges from an insurer other than a health insurer, including an insurer that provides coverage under a policy of casualty or property insurance. These limitations currently do not apply to Medicaid, the

Children's Health Insurance Program or any other public program which may pay all or part of the hospital bill. (NRS 449.758) **Section 2** of this bill limits the amount that the hospital may collect or attempt to collect from the patient or other responsible party to the lesser of: (1) the amounts payable by or on behalf of the patient under the policy; or (2) the amount provided in the contract between the hospital and the third party. **Section 2** also deletes the specific ~~reference~~ **reference** to ~~casualty and~~ property insurance and removes the exemption for Medicaid, the Children's Health Insurance Program and other public programs.

~~Finally, where the amount that the hospital may collect or attempt to collect from the patient or other responsible party is limited as described above, sections~~ **Section 2 additionally requires a hospital that collects or receives any payments from an insurer that provides medical payment coverage under a policy of casualty insurance to return to the patient or the person identified in the hospital bill as the responsible party any amount collected or received that is in excess of the deductible, copayment or coinsurance payable by or on behalf of the patient under the policy of health insurance not later than 30 days after a determination is made concerning coverage.**

Existing law provides that a hospital has statutory liens for any amount due to the hospital for the reasonable value of the care rendered to an injured person. The liens apply to any award of damages or settlement obtained by the injured person or the personal representative of the injured person from a person responsible for the injury causing the hospitalization or, in the case of a county or district hospital, any real property of the injured person or other responsible party. (NRS 108.590, 108.662) Under section 2.5 of this bill, if a hospital provides care to an injured person who has a policy of health insurance issued by a third party and the hospital has a contract with that party and wishes to be able to perfect a statutory lien on a judgment or settlement, the hospital is required to send a notice of intent to file a lien to certain persons after the hospital submits a claim to the third party but not later than 90 days after the termination of the hospitalization of the injured person. After the claim is accepted by the third party or, if the claim is denied, all available appeals have been exhausted, the hospital is required to mail written notice to the injured person or the personal representative of the injured person, specifying the amount due. Section 2.5 authorizes a hospital to perfect the statutory lien for any amount due if, within 30 days after such written notice is mailed, the amount due is not paid or an agreement for a payment plan is not entered into. Section 2.5 additionally provides that if a hospital provides notice of intent to file a lien, the hospital must be provided notice of any judgment, settlement or compromise.

Section 2.7 of this bill provides that a statutory lien on a judgment or settlement is the exclusive method of collection against an injured person

and any amount received pursuant to the lien constitutes complete satisfaction of any debt owed by the injured person to the hospital for the care provided.

Section 2.9 of this bill provides that if a hospital improperly asserts or perfects a statutory lien on a judgment or settlement, the injured person is entitled to damages equal to twice the amount of the lien.

Under section 3.7 of this bill, if a hospital perfects a lien and subsequently receives information that the injured person has a policy of health insurance issued by a third party and the hospital has a contract with that party, the hospital is required to file a claim with the third party and wait for the claim to be adjudicated and all available appeals to be exhausted before the hospital is able to collect any amount under the lien.

Sections 3 and 4 of this bill limit the amount of ~~the~~ a hospital's statutory liens ~~accordingly~~ in certain circumstances.

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

Section 1. ~~[NRS 449.757 is hereby amended to read as follows:~~

~~449.757 1. When a person receives hospital care, the hospital must not assert, perfect, foreclose or otherwise enforce or attempt to enforce any lien pursuant to NRS 108.590 or 108.662 or otherwise proceed with any efforts to collect on any amount owed to the hospital for the hospital care from the responsible party, other than for any copayment or deductible, if the responsible party has health insurance or may be eligible for Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the bill, until the hospital has submitted a bill to the health insurance company or public program and the health insurance company or public program has made a determination concerning payment of the claim.~~

~~2. Collection efforts may begin and interest may begin to accrue on any amount owed to the hospital for hospital care which remains unpaid by the responsible party not sooner than 30 days after the responsible party is sent a bill by mail stating the amount that he or she is responsible to pay which has been established after receiving a determination concerning payment of the claim by any insurer or public program and after applying any discounts. Interest must accrue at a rate which does not exceed the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date on which the payment becomes due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the payment is satisfied.~~

~~3. Except for the interest authorized pursuant to subsection 2 and any court costs and attorney's fees awarded by a court, no other fees may be charged concerning the amount that remains unpaid, including, without~~

~~limitation, collection fees, other attorney's fees or any other fees or costs.]~~
(Deleted by amendment.)

Sec. 2. NRS 449.758 is hereby amended to read as follows:

449.758 1. Except as otherwise provided in subsection ~~[2.]~~ **3.**, if a hospital provides hospital care to a person who has a policy of health insurance issued by a third party that provides health coverage for care provided at that hospital and the hospital has a contractual agreement with the third party, the hospital ~~[shall]~~:

(a) **Shall** proceed with any efforts to collect on any amount owed to the hospital for the hospital care in accordance with the provisions of NRS 449.757. ~~[and shall]~~

(b) **Shall not collect or attempt to collect from the patient or other responsible party more than the lesser of:**

(1) **The sum of the amounts of any deductible, copayment or coinsurance payable by or on behalf of the patient under the policy of health insurance; or**

(2) **The amount provided in the contractual agreement between the hospital and the third party.**

(c) **Shall** not collect or attempt to collect that amount from:

~~[(a)]~~ (1) Any proceeds or potential proceeds of a civil action brought by or on behalf of the patient, including, without limitation, any amount awarded for medical expenses; or

~~[(b)]~~ (2) An insurer other than ~~[a health]~~ **an insurer** ~~[, including, without limitation,]~~ **that provides coverage under a policy of health insurance or an insurer that provides coverage for medical payments** under a policy of casualty ~~[or property health]~~ insurance.

2. **If the hospital collects or receives any payments from an insurer that provides coverage for medical payments under a policy of casualty insurance, the hospital shall, not later than 30 days after a determination is made concerning coverage, return to the patient or the person identified in the hospital bill as the responsible party any amount collected or received that is in excess of the deductible, copayment or coinsurance payable by or on behalf of the patient or person under the policy of health insurance.**

3. This section does not apply to ~~[-~~

~~(a) Amounts] amounts~~ owed to the hospital under the policy of health insurance that are not collectible. ~~[- or~~

~~(b) Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the bill.~~

~~3.]~~ **4.** This section does not limit any rights of a patient to contest an attempt to collect an amount owed to a hospital, including, without limitation, contesting a lien obtained by a hospital.

~~4.]~~ **5.** As used in this section, "third party" ~~[has the meaning ascribed to it in NRS 439B.260.]~~ **means:**

- (a) *An insurer, as defined in NRS 679B.540;*
- (b) *A health benefit plan, as defined in NRS 689A.540, for employees which provides coverage for services and care at a hospital;*
- (c) *A participating public agency, as defined in NRS 287.04052, and any other local governmental agency of the State of Nevada which provides a system of health insurance for the benefit of its officers and employees, and the dependents of officers and employees, pursuant to chapter 287 of NRS; or*
- (d) *Any other insurer or organization providing health coverage or benefits in accordance with state or federal law.*

Sec. 2.1. Chapter 108 of NRS is hereby amended by adding thereto the provisions set forth as sections 2.3 to 2.9, inclusive, of this act.

Sec. 2.3. As used in NRS 108.590 to 108.660, inclusive, and sections 2.3 to 2.9, inclusive, of this act, unless the context otherwise requires, "third party" has the meaning ascribed to it in subsection 5 of NRS 449.758.

Sec. 2.5. 1. If a hospital provides hospital care to an injured person who has a policy of health insurance issued by a third party that provides health coverage for care provided at the hospital and the hospital has a contractual agreement with the third party and wishes to be able to perfect a lien pursuant to NRS 108.610, the hospital shall, after submitting a claim to the third party but not later than 90 days after the termination of hospitalization, send a notice of intent to file a lien by registered or certified mail to:

(a) The insurance carrier, if known, which has insured against liability of the person alleged to be responsible for causing the injury and liable on account thereof and from which damages are claimed and any legal representative of that person; and

(b) The injured person or personal representative of the injured person, as applicable, and any legal representative of the injured person or personal representative.

2. The notice sent pursuant to subsection 1 must contain the following information:

(a) The charges billed by the hospital for the services provided to the injured person;

(b) The reasonable estimate by the hospital of the amount to be paid by the third party; and

(c) The reasonable estimate by the hospital of the amount of any deductible, copayment or coinsurance to be paid by the injured person.

3. After a claim is submitted to a third party and the claim is accepted or, if the claim is denied, all available appeals have been exhausted, the hospital shall deliver written notice by first-class mail to the injured person or the personal representative of the injured person, as applicable, specifying the total amount due.

4. If, within 30 days after the date that written notice is mailed pursuant to subsection 3, the total amount due is not paid or the injured person or the personal representative of the injured person does not enter into an agreement with the hospital to make payments toward the amount due, the hospital may perfect the lien for any amount due in accordance with the provisions of NRS 108.610.

5. If an injured person or the personal representative of an injured person is awarded by judgment or obtains by a settlement or compromise a sum of money after a notice of intent to file a lien is received pursuant to this section:

(a) Any person receiving such notice shall provide written notice to the hospital of the judgment, settlement or compromise; and

(b) The insurance carrier and any attorney holding the money in trust shall proceed as if the lien is perfected pursuant to NRS 108.610.

Sec. 2.7. A lien asserted pursuant to NRS 108.590 to 108.660, inclusive, and sections 2.3 to 2.9, inclusive, of this act is the exclusive method of collection against an injured person, and any amount received pursuant to the lien constitutes complete satisfaction of any debt owed by the injured person to the hospital for the hospital care provided.

Sec. 2.9. If a hospital asserts or perfects a lien in violation of NRS 108.590 to 108.660, inclusive, and sections 2.3 to 2.9, inclusive, of this act, the injured person is entitled to damages equal to twice the amount of the lien.

Sec. 3. NRS 108.590 is hereby amended to read as follows:

108.590 1. ~~Whenever~~ Except as otherwise provided in ~~this~~ subsection ~~1~~ 2, whenever any person receives hospitalization on account of any injury, and the injured person, or a personal representative after the person's death, claims damages from the person responsible for causing the injury, the hospital has a lien upon any sum awarded the injured person or the personal representative by judgment or obtained by a settlement or compromise to the extent of the amount due the hospital for the reasonable value of the hospitalization rendered before the date of judgment, settlement or compromise. ~~If the provisions of NRS 449.757 or 449.758 are applicable, the amount of the lien is limited to the amount the hospital is entitled to collect pursuant to those sections.~~

2. Except as otherwise provided in subsection 3, if a hospital provides hospital care to an injured person who has a policy of health insurance issued by a third party that provides health coverage for care provided at the hospital and the hospital has a contractual agreement with the third party, the reasonable value of the hospitalization rendered is limited to the lesser of:

(a) The sum of the amounts of any deductible, copayment or coinsurance payable by or on behalf of the injured person under the policy of health insurance; or

(b) The amount provided in the contractual agreement between the hospital and the third party.

3. The provisions of subsection 2 do not apply if the third party denies coverage for the services provided to the injured person and all available appeals provided pursuant to the policy of health insurance have been exhausted. For the purposes of this subsection, a claims adjudication by a third party that another person is responsible for payment is not a denial of coverage.

4. The lien provided by this section is:

(a) Not valid against anyone coming under the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

(b) In addition to the lien provided by NRS 108.662.

Sec. 3.3. NRS 108.600 is hereby amended to read as follows:

108.600 1. No rights or claims for liens under NRS 108.590 to 108.660, inclusive, and sections 2.3 to 2.9, inclusive, of this act shall be allowed for hospitalization rendered an injured person after a settlement has been effected by or on behalf of the party causing the injury.

2. No lien shall apply or be allowed against any sum incurred by the injured party for necessary attorney fees, costs and expenses incurred by the injured party in securing a settlement, compromise or recovering damages by an action at law.

Sec. 3.7. NRS 108.610 is hereby amended to read as follows:

108.610 1. In order to perfect ~~the~~ a lien ~~is~~ provided by NRS 108.590, the hospital or the owner or operator thereof ~~shall~~

~~1.]~~ must comply with the provisions of section 2.5 of this act, if applicable, and:

(a) Before the payment of any money to the injured person, the personal representative of the injured person or to a legal representative as compensation for injuries received, record a notice of lien, substantially in the form prescribed in NRS 108.620, containing an itemized statement of the amount claimed. The notice of lien must be filed with:

~~(a)~~ (1) The county recorder of the county wherein the hospital is located; and

~~(b)~~ (2) The county recorder of the county wherein the injury was suffered, if the injury was suffered in a county other than that wherein the hospital is located.

~~2.]~~ (b) Before the date of judgment, settlement or compromise, serve a certified copy of the notice of lien by registered or certified mail upon the person alleged to be responsible for causing the injury and liable for damages on account thereof and from which damages are claimed.

~~3.]~~ (c) Before the date of judgment, settlement or compromise, serve a certified copy of the notice of lien by registered or certified mail upon the insurance carrier, if known, which has insured against liability of the person alleged to be responsible for causing the injury and liable for damages on account thereof and from which damages are claimed.

2. If a hospital perfects a lien and, before collecting any amount under the lien, receives information that the injured person has a policy of health insurance issued by a third party that provides health coverage for care provided at the hospital and the hospital has a contractual agreement with the third party, the hospital must file a claim with the third party and wait for the claim to be adjudicated and all available appeals to be exhausted before the hospital may collect any amount under the lien.

Sec. 4. NRS 108.662 is hereby amended to read as follows:

108.662 1. Except as otherwise provided in subsection 4, a county or district hospital has a lien upon the real property of a person for charges incurred and unpaid for the care of the owner of the property or a person for whose support the owner is legally responsible. ***If the provisions of NRS 449.757 or 449.758 are applicable, the amount of the lien is limited to the amount the hospital is entitled to collect pursuant to those sections.***

2. The notice of the lien must be served upon the owner by certified or registered mail and filed in the office of the county recorder of the county where the real property is located not sooner than 90 days nor later than:

- (a) Three years after the patient's discharge; or
- (b) One year after the patient defaults on payments made pursuant to a written contract,

↪ whichever is later, except that the notice may be served and filed within 6 months after any default pursuant to a written contract.

3. The notice of the lien must contain:

- (a) The amount due;
- (b) The name of the owner of record of the property; and
- (c) A description of the property sufficient for identification.

4. If the amount due as stated in the notice of lien is reduced by payments and any person listed in subsection 2 of NRS 108.665 gives written notice of that reduction to the county or district hospital which recorded the lien, the county or district hospital shall amend the notice of lien stating the amount then due, within 10 days after it receives the written notice.

5. A county or district hospital shall not assign, sell or transfer the interest of the hospital in a lien created pursuant to this section.

Sec. 4.5. The amendatory provisions of this act apply to a person who is admitted to a hospital on or after July 1, 2017.

Sec. 5. This act becomes effective on July 1, 2017.

Assemblyman Yeager moved the adoption of the amendment.

Remarks by Assemblyman Yeager.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 280.

Bill read second time.

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

Amendment No. 738.

AN ACT relating to procurement; establishing provisions relating to preferences in bidding for certain contracts with Nevada-based businesses for state purchasing; revising provisions relating to ~~preferences in bidding;~~ **the disclosure of the weight assigned to certain factors used to evaluate proposals for certain state purchasing contracts ;** ~~for certain public works projects;~~ providing ~~penalties;~~ **a penalty;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law grants a preference of 5 percent for a bid or proposal for a state purchasing contract which is submitted by a local business owned and operated by a veteran with a service-connected disability. (NRS 333.3361-333.3369) **Sections 2-8** of this bill create a preference of 5 percent for a bid or proposal for a state purchasing contract which is submitted by a Nevada-based business. To qualify for this preference, **section 3** requires such a business to certify that: (1) ~~at least 50 percent of all workers employed for the state purchasing contract will hold a valid Nevada driver's license or identification card;~~ **its principal place of business is in this State; or** (2) ~~all vehicles used primarily for the~~ **a majority of the goods provided for in a state purchasing contract** ~~(will be either registered)~~ **are produced** in this State ~~for partially apportioned to this State; and (3) certain records will be maintained and made available for inspection within this State.~~ **Section 5** establishes that a bid or proposal which qualifies for the preference will be deemed to be 5 percent lower than the bid or proposal actually submitted. **Section 5 also prohibits granting the preference for the award of any contract which uses federal money, unless such a preference is authorized by federal law.** **Section 6** imposes certain penalties and restrictions upon a business that makes a material misrepresentation or commits a fraudulent act in applying for a preference or fails to comply with the requirements for a preference. **Sections 9 and 10 of this bill make conforming changes.**

Existing law requires each proposal submitted for certain state purchasing contracts to be evaluated based on certain factors to determine whether the proposal is in the best interest of the State. Each factor is assigned a relative weight which must not be disclosed before the proposals are submitted. (NRS 333.335) Section 9.5 of this bill removes the requirement that the weight of each factor must not be disclosed before the proposals are submitted.

~~Existing law requires that a contractor, applicant to serve as a construction manager at risk or design build team that wishes to receive a preference in bidding for a contract for a public work submit an affidavit to the public body sponsoring or financing the public work certifying that: (1) at least 50 percent of all workers employed on the public work will hold a valid Nevada driver's license or identification card; (2) all vehicles used primarily for the public work will be either registered in this State or partially apportioned to this~~

~~State; (3) at least 50 percent of all design professionals working on the public work will hold a valid Nevada driver's license or identification card; and (4) certain records will be maintained and made available for inspection within this State. (NRS 338.0117) Sections 12-16 of this bill revise the bidding preference that a contractor, applicant to serve as a construction manager at risk or design build team who meets these requirements receives for certain public works contracts from 5 percent to 10 percent.~~

~~Existing law prohibits a contractor from being qualified to bid on certain state and local public works if the contractor has, within the preceding year, materially breached a contract for a public work that cost more than \$25,000,000 and prohibits a contractor who has materially breached a contract for a public work which exceeds \$5,000,000 from receiving a preference in bidding for public works for 5 years. (NRS 338.1379, 338.1382, 338.1389, 338.1415, 338.147, 408.333) Existing law also imposes a penalty of 1 percent of the cost of the contract upon a contractor, applicant or design build team who is awarded a contract as a result of a bidding preference and subsequently fails to comply with the requirements to receive that preference. (NRS 338.0117) Section 11 of this bill makes a willful failure to comply with the requirements to receive a bidding preference a misdemeanor and creates a separate violation for each worker, vehicle or design professional by which the contractor, applicant or design build team falls below the requirements. Section 7 creates a similar misdemeanor for a business that receives a preference on a state purchasing contract as a Nevada based business and willfully fails to comply with the requirements for such a preference.]~~

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

Section 1. Chapter 333 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. *As used in sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Nevada-based business” means a business which certifies that*
~~*for the duration of a state purchasing contract, collectively, and not on any specific day;*~~

~~*1. At least 50 percent of the workers employed by the business for the state purchasing contract will hold a valid driver's license or identification card issued by the Department of Motor Vehicles of the State of Nevada;*~~

~~*2. All vehicles used primarily for the state purchasing contract will be:*~~

~~*(a) Registered and partially apportioned to Nevada pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826; or*~~

~~*(b) Registered in this State; and*~~

~~3. The business will maintain and make available for inspection within this State its records concerning payroll relating to the:~~

1. Its principal place of business is in this State; or
2. The majority of goods provided for in a state purchasing contract ~~is~~ are produced in this State.

Sec. 4. "State purchasing contract" means a contract awarded pursuant to the provisions of this chapter.

Sec. 5. 1. For the purposes of awarding a formal contract solicited pursuant to subsection 2 of NRS 333.300, if a business qualifies as a Nevada-based business and submits a bid or proposal and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.

2. The preference described in subsection 1 may not be ~~combined~~:

- (a) Combined with any other preference.
- (b) Granted for the award of any contract which uses federal money unless such a preference is authorized by federal law.

Sec. 6. 1. In addition to any other remedy or penalty provided by law, if the Purchasing Division determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in section 5 of this act or has failed to comply with the requirements of that section, the business:

(a) Shall pay to the Purchasing Division, if awarded a state purchasing contract, a penalty in the amount of 1 percent of the cost of the state purchasing contract;

(b) Shall not bid on a state purchasing contract or a contract awarded by any local government for 1 year after the date upon which the Purchasing Division makes such a determination; and

(c) Shall not apply for or receive a preference described in section 5 of this act for 5 years after the date upon which the Purchasing Division makes such a determination.

2. If the Purchasing Division determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in section 5 of this act or has failed to comply with the requirements of that section, the business may apply to the Administrator to review the decision pursuant to chapter 233B of NRS.

~~Sec. 7. [In addition to any other remedy or penalty provided by law, any person who willfully makes a material misrepresentation or otherwise commits a fraudulent act in applying for a preference described in section 5 of this act or who willfully fails to comply with the requirements of that section is guilty of a misdemeanor and shall be punished by a fine of not more than \$10,000. For the purposes of this section, a separate violation occurs for each:~~

~~1. Worker who would need to hold a valid driver's license or identification card issued by the Department of Motor Vehicles of the State~~

~~of Nevada in order for at least 50 percent of the workers employed by the business for the state purchasing contract to hold such a license or card; and~~

~~2. Vehicle used primarily for the state purchasing contract which is not registered and partially apportioned to Nevada pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826, or registered in this State.] (Deleted by amendment.)~~

Sec. 8. The Purchasing Division may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 2 to 8, inclusive, of this act. The regulations may include, without limitation, provisions setting forth:

1. The method by which a business may apply to receive a preference described in section 5 of this act;

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for a preference described in section 5 of this act; and

3. Such other matters as the Purchasing Division deems relevant.

Sec. 9. NRS 333.310 is hereby amended to read as follows:

333.310 1. An advertisement must contain a general description of the classes of commodities or services for which a bid or proposal is wanted and must state:

(a) The name and location of the department, agency, local government, district or institution for which the purchase is to be made.

(b) Where and how specifications and quotation forms may be obtained.

(c) If the advertisement is for bids, whether the Administrator is authorized by the using agency to be supplied to consider a bid for an article that is an alternative to the article listed in the original request for bids if:

(1) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(2) The purchase of the alternative article results in a lower price; and

(3) The Administrator deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(d) Notice of the ~~[preference]~~ **preferences** set forth in NRS 333.3366 ~~[]~~ **and section 5 of this act.**

(e) The date and time not later than which responses must be received by the Purchasing Division.

(f) The date and time when responses will be opened.

↪The Administrator or a designated agent of the Administrator shall approve the copy for the advertisement.

2. Each advertisement must be published:

(a) In at least one newspaper of general circulation in the State. The selection of the newspaper to carry the advertisement must be made in the manner provided by this chapter for other purchases, on the basis of the lowest price to be secured in relation to the paid circulation; and

(b) On the Internet website of the Purchasing Division.

Sec. 9.5. NRS 333.335 is hereby amended to read as follows:

333.335 1. Each proposal must be evaluated by:

(a) The chief of the using agency, or a committee appointed by the chief of the using agency in accordance with the regulations adopted pursuant to NRS 333.135, if the proposal is for a using agency; or

(b) The Administrator of the Purchasing Division, or a committee appointed by the Administrator in accordance with the regulations adopted pursuant to NRS 333.135, if the Administrator is responsible for administering the proposal.

2. A committee appointed pursuant to subsection 1 must consist of not less than two members. A majority of the members of the committee must be state officers or employees. The committee may include persons who are not state officers or employees and possess expert knowledge or special expertise that the chief of the using agency or the Administrator of the Purchasing Division determines is necessary to evaluate a proposal. The members of the committee are not entitled to compensation for their service on the committee, except that members of the committee who are state officers or employees are entitled to receive their salaries as state officers and employees. No member of the committee may have a financial interest in a proposal. If the contract is being awarded for the Public Employees' Benefits Program, the Executive Officer of the Program may observe the activities of the committee, but may not vote or otherwise participate in the evaluation.

3. In making an award, the chief of the using agency, the Administrator of the Purchasing Division or each member of the committee, if a committee is established, shall consider and assign a score for each of the following factors for determining whether the proposal is in the best interests of the State of Nevada:

(a) The experience and financial stability of the person submitting the proposal;

(b) Whether the proposal complies with the requirements of the request for proposals as prescribed in NRS 333.311;

(c) The price of the proposal; and

(d) Any other factor disclosed in the request for proposals.

4. The chief of the using agency, the Administrator of the Purchasing Division or the committee, if a committee is established, shall determine the relative weight of each factor set forth in subsection 3 before a request for proposals is advertised. ~~[The weight of each factor must not be disclosed before the date proposals are required to be submitted.]~~

5. Except as otherwise provided in this subsection, the chief of the using agency, the Administrator of the Purchasing Division or the committee, if a committee is established, shall award the contract based on the best interests of the State, as determined by the total scores assigned pursuant to subsection 3, and is not required to accept the lowest-priced proposal. If the contract is being awarded for the Public Employees' Benefits Program, the

Administrator of the Purchasing Division or the committee, if a committee is established, shall submit recommendations for awarding the contract to the Board for the Public Employees' Benefits Program, which shall award the contract in accordance with NRS 287.04345.

6. Except as otherwise provided in NRS 239.0115, each proposal evaluated pursuant to the provisions of this section is confidential and may not be disclosed until the contract is awarded.

Sec. 10. NRS 333.340 is hereby amended to read as follows:

333.340 1. Every contract or order for goods must be awarded to the lowest responsible bidder. To determine the lowest responsible bidder, the Administrator:

(a) Shall consider, if applicable:

- (1) The granting of the preference described in NRS 333.3366.
- (2) *The granting of the preference described in section 5 of this act.*
- (3) The required standards adopted pursuant to NRS 333.4611.

(b) May consider:

- (1) The location of the using agency to be supplied.
- (2) The qualities of the articles to be supplied.
- (3) The total cost of ownership of the articles to be supplied.
- (4) Except as otherwise provided in subparagraph (5), the conformity of the articles to be supplied with the specifications.
- (5) If the articles are an alternative to the articles listed in the original request for bids, whether the advertisement for bids included a statement that bids for an alternative article will be considered if:
 - (I) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;
 - (II) The purchase of the alternative article results in a lower price; and
 - (III) The Administrator deems the purchase of the alternative article to be in the best interests of the State of Nevada.
- (6) The purposes for which the articles to be supplied are required.
- (7) The dates of delivery of the articles to be supplied.

2. If a contract or an order is not awarded to the lowest bidder, the Administrator shall provide the lowest bidder with a written statement which sets forth the specific reasons that the contract or order was not awarded to him or her.

3. As used in this section, "total cost of ownership" includes, but is not limited to:

- (a) The history of maintenance or repair of the articles;
- (b) The cost of routine maintenance and repair of the articles;
- (c) Any warranties provided in connection with the articles;
- (d) The cost of replacement parts for the articles; and
- (e) The value of the articles as used articles when given in trade on a subsequent purchase.

Sec. 11. NRS 338.0117 is hereby amended to read as follows:

338.0117 1. To qualify to receive a preference in bidding pursuant to subsection 2 of NRS 338.1389, subsection 2 of NRS 338.147, subsection 3 of NRS 338.1693, subsection 3 of NRS 338.1727 or subsection 2 of NRS 408.3886, a contractor, an applicant or a design-build team, respectively, must submit to the public body sponsoring or financing a public work a signed affidavit which certifies that, for the duration of the project, collectively, and not on any specific day:

(a) At least 50 percent of the workers employed on the public work, including, without limitation, any employees of the contractor, applicant or design-build team and of any subcontractor engaged on the public work, will hold a valid driver's license or identification card issued by the Department of Motor Vehicles of the State of Nevada;

(b) All vehicles used primarily for the public work will be:

(1) Registered and partially apportioned to Nevada pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826; or

(2) Registered in this State;

(c) If applying to receive a preference in bidding pursuant to subsection 3 of NRS 338.1727 or subsection 2 of NRS 408.3886, at least 50 percent of the design professionals working on the public work, including, without limitation, employees of the design-build team and of any subcontractor or consultant engaged in the design of the public work, will have a valid driver's license or identification card issued by the Department of Motor Vehicles of the State of Nevada; and

(d) The contractor, applicant or design-build team and any subcontractor engaged on the public work will maintain and make available for inspection within this State his or her records concerning payroll relating to the public work.

2. Any contract for a public work that is awarded to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 as a result of the contractor, applicant or design-build team receiving a preference in bidding described in subsection 1 must:

(a) Include a provision in the contract that substantially incorporates the requirements of paragraphs (a) to (d), inclusive, of subsection 1; and

(b) Provide that a failure to comply with any requirement of paragraphs (a) to (d), inclusive, of subsection 1 entitles the public body to a penalty only as provided in subsections 5 and 6.

3. A person who submitted a bid on the public work or an entity who believes that a contractor, applicant or design-build team has obtained a preference in bidding as described in subsection 1 but has failed to comply with a requirement of paragraphs (a) to (d), inclusive, of subsection 1 may file, before the substantial completion of the public work, a written objection with the public body for which the contractor, applicant or design-build team is performing the public work. A written objection authorized pursuant to this

subsection must set forth proof or substantiating evidence to support the belief of the person or entity that the contractor, applicant or design-build team has failed to comply with a requirement of paragraphs (a) to (d), inclusive, of subsection 1.

4. If a public body receives a written objection pursuant to subsection 3, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to 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. If the public body determines that the objection is accompanied by the required proof or substantiating evidence or if the public body determines on its own initiative that proof or substantiating evidence of a failure to comply with a requirement of paragraphs (a) to (d), inclusive, of subsection 1 exists, the public body shall determine whether the contractor, applicant or design-build team has failed to comply with a requirement of paragraphs (a) to (d), inclusive, of subsection 1 and the public body or its authorized representative may proceed to award the contract accordingly or, if the contract has already been awarded, seek the remedy authorized in subsection 5.

5. ~~5.~~ ***In addition to any other remedy or penalty provided by law, a*** public body may recover, by civil action against the party responsible for a failure to comply with a requirement of paragraphs (a) to (d), inclusive, of subsection 1, a penalty as described in subsection 6 for a failure to comply with a requirement of paragraphs (a) to (d), inclusive, of subsection 1. If a public body recovers a penalty pursuant to this subsection, the public body shall report to the State Contractors' Board the date of the failure to comply, the name of each entity which failed to comply and the cost of the contract to which the entity that failed to comply was a party. The Board shall maintain this information for not less than 6 years. Upon request, the Board shall provide this information to any public body or its authorized representative.

6. If a contractor, applicant or design-build team submits the affidavit described in subsection 1, receives a preference in bidding described in subsection 1 and is awarded the contract as a result of that preference, the contract between the contractor, applicant or design-build team and the public body, each contract between the contractor, applicant or design-build team and a subcontractor and each contract between a subcontractor and a lower tier subcontractor must provide that:

(a) If a party to the contract causes the contractor, applicant or design-build team to fail to comply with a requirement of paragraphs (a) to (d), inclusive, of subsection 1, the party is liable to the public body for a penalty in the amount of 1 percent of the cost of the largest contract to which he or she is a party;

(b) The right to recover the amount determined pursuant to paragraph (a) by the public body pursuant to subsection 5 may be enforced by the public body directly against the party that caused the failure to comply with a requirement of paragraphs (a) to (d), inclusive, of subsection 1; and

(c) No other party to the contract is liable to the public body for a penalty.

7. A public body that awards a contract for a public work to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1 shall, on or before July 31 of each year, submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission. The report must include information on each contract for a public work awarded to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1, including, without limitation, the name of the contractor, applicant or design-build team who was awarded the contract, the cost of the contract, a brief description of the public work and a description of the degree to which the contractor, applicant or design-build team and each subcontractor complied with the requirements of paragraphs (a) to (d), inclusive, of subsection 1.

8. ~~In addition to any other remedy or penalty provided by law, any person who willfully fails to comply with the requirements of paragraphs (a), (b) and (c) of subsection 1 is guilty of a misdemeanor and shall be punished by a fine of not more than \$10,000. For the purpose of this subsection, a separate violation occurs for:~~

~~(a) Each worker who would need to hold a valid driver's license or identification card issued by the Department of Motor Vehicles of the State of Nevada in order for at least 50 percent of the workers employed on the public work to hold such a license or card;~~

~~(b) Each vehicle used primarily for the public work which is not registered and partially apportioned to Nevada pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826, or registered in this State; and~~

~~(c) If receiving a preference in bidding pursuant to subsection 3 of NRS 338.1727 or subsection 2 of NRS 408.3886, each design professional who would need to hold a valid driver's license or identification card issued by the Department of Motor Vehicles of the State of Nevada in order for at least 50 percent of the design professionals working on the public work to hold such a license or card.~~

~~9.7~~ As used in this section:

(a) "Lower tier subcontractor" means a subcontractor who contracts with another subcontractor to provide labor, materials or services to the other subcontractor for a construction project.

(b) "Vehicle used primarily for the public work" does not include any vehicle that is present at the site of the public work only occasionally and for a purpose incidental to the public work including, without limitation, the delivery of materials. Notwithstanding the provisions of this paragraph, the term includes any vehicle which is:

(1) Owned or operated by the contractor or any subcontractor who is engaged on the public work; and

(2) Present at the site of the public work.

Sec. 12. ~~[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 5-10 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,~~

~~and 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.] (Deleted by amendment.)~~

Sec. 13. ~~[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 5-10 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 2 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.~~ **(Deleted by amendment.)**

Sec. 14. ~~[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 ~~10~~ 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 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:~~

~~(a) Make available to all applicants and the public the following information, as determined by the panel appointed pursuant to subsection 1 and the panel that conducted the interviews, as applicable:~~

~~(1) The final rankings of the applicants;~~

~~(2) The score assigned to each proposal received by the public body; and~~

~~(3) For each proposal received by the public body, the score assigned to each factor that the public body specified in the request for proposals; and~~

~~(b) Provide, upon request, an explanation to any unsuccessful applicant of the reasons why the applicant was unsuccessful.] (Deleted by amendment.)~~

Sec. 15. ~~[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 5-10 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 (c), 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.]~~

(Deleted by amendment.)

~~Sec. 16. [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 ~~10~~ 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.] **(Deleted by amendment.)**~~

Sec. 17. This act becomes effective on July 1, 2017.

Assemblyman Flores moved the adoption of the amendment.

Remarks by Assemblyman Flores.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 498.

Bill read second time and ordered to third reading.

Assembly Bill No. 500.

Bill read second time and ordered to third reading.

Senate Bill No. 46.

Bill read second time.

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

Amendment No. 718.

AN ACT relating to public welfare; revising provisions governing background checks of operators, employees and certain adult residents of a child care facility; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Division of Public and Behavioral Health of the Department of Health and Human Services to identify, as part of a background check, whether an applicant for a license to operate a child care facility, an employee of the facility, ~~or~~ certain adult residents of the facility or a participant in an outdoor youth program have been convicted of certain offenses. (NRS 432A.170) A person who has been convicted of any

of the listed offenses must not be issued a license to operate a child care facility or, in the case of employees, ~~for~~ residents of the facility ~~or~~ **participants**, must be terminated or removed from the facility ~~or~~ **program**. (NRS 432A.160, 432A.1755)

The federal Child Care and Development Block Grant Act of 2014 prohibits child care facilities from employing persons convicted of certain additional offenses ~~or~~ **unless a review process is established by the State that allows the State to determine whether a person convicted of such crimes may continue to be eligible for employment at a child care facility.** (42 U.S.C. ~~§ 9858f(e)~~ **§§ 9858f(c), 9858f(e)**) This bill adds those offenses to align Nevada law with federal standards.

In addition, this bill authorizes the Division of Public and Behavioral Health to adopt regulations to establish a process to review evidence upon request to determine whether an employee or resident of a child care facility or certain participants in an outdoor youth program may remain employed, continue to reside or participate in the program, as applicable, despite such a conviction.

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

Section 1. NRS 432A.170 is hereby amended to read as follows:

432A.170 1. The Division may, upon receipt of an application for a license to operate a child care facility, conduct an investigation into the:

- (a) Buildings or premises of the facility and, if the application is for an outdoor youth program, the area of operation of the program;
- (b) Qualifications and background of the applicant or the employees of the applicant;
- (c) Method of operation for the facility; and
- (d) Policies and purposes of the applicant.

2. The Division shall secure from appropriate law enforcement agencies information on the background and personal history of every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, or participant in an outdoor youth program who is 18 years of age or older, to determine whether the person has been convicted of:

- (a) Murder, voluntary manslaughter or mayhem;
- (b) Any other felony involving the use of a firearm or other deadly weapon;
- (c) Assault with intent to kill or to commit sexual assault or mayhem;
- (d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;
- (e) ~~Abuse or~~ **Any crime against a child, including, without limitation, abuse, neglect or endangerment of a child, ~~or~~ contributory delinquency ~~or~~ or pornography involving a minor;**

- (f) ~~[A violation of any federal or state law regulating]~~ **Arson;**
- (g) **Assault;**
- (h) **Battery, including, without limitation, battery which constitutes domestic violence;**
- (i) **Kidnapping;**
- (j) **Any offense relating to the possession or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS within the immediately preceding 5 years;**
- (k) **Any offense relating to the ~~[possession,]~~ distribution or ~~[use]~~ manufacture of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;**
- ~~[(g)]~~ (l) Abuse, neglect, exploitation, isolation or abandonment of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct; or
- ~~[(h)]~~ (m) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years.

3. The Division shall request information concerning every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, or participant in an outdoor youth program who is 18 years of age or older, from:

- (a) The Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report pursuant to NRS 432A.175; and
- (b) The Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 to determine whether there has been a substantiated report of child abuse or neglect made against any of them.

4. The Division may charge each person investigated pursuant to this section for the reasonable cost of that investigation.

5. The information required to be obtained pursuant to subsections 2 and 3 must be requested concerning an:

- (a) Employee of an applicant or licensee, resident of a child care facility who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, or participant in an outdoor youth program who is 18 years of age or older not later than 3 days after the employee is hired, the residency begins or the participant begins participating in the program, and then at least once every 5 years thereafter.
- (b) Applicant at the time that an application is submitted for licensure, and then at least once every 5 years after the license is issued.

6. A person who is required to submit to an investigation required pursuant to this section shall not have contact with a child in a child care

facility without supervision before the investigation of the background and personal history of the person has been conducted.

Sec. 1.5. NRS 432A.1755 is hereby amended to read as follows:

432A.1755 1. ~~Upon~~ **Except as otherwise provided in subsection 3, upon** receiving information pursuant to NRS 432A.175 from the Central Repository for Nevada Records of Criminal History or the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 or evidence from any other source that an employee of an applicant for a license to operate a child care facility or a licensee, or a resident of a child care facility who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, or participant in an outdoor youth program who is 18 years of age or older has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him or her, the applicant or licensee shall terminate the employment of the employee or remove the resident from the facility or participant from the outdoor youth program after allowing the employee, resident or participant time to correct the information as required pursuant to subsection 2.

2. If an employee, resident or participant believes that the information provided to the applicant or licensee pursuant to subsection 1 is incorrect, the employee, resident or participant must inform the applicant or licensee immediately. The applicant or licensee shall give any such employee, resident or participant 30 days to correct the information.

3. **The Division may establish by regulation a process by which it may review evidence upon request to determine whether an employee of an applicant for a license to operate a child care facility or a licensee, or a resident of a child care facility who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, or a participant in an outdoor youth program who is 18 years of age or older has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him or her may remain employed or continue to reside in the facility, as applicable, despite the conviction. Any such review must be conducted in a manner which does not discriminate against a person in violation of 42 U.S.C. § 2000e et seq.**

4. **If a process for review is established pursuant to subsection 3, an employee, resident or participant, as applicable, may request such a review in the manner established by the Division. Any determination made by the Division is final for purposes of judicial review.**

5. During any period in which an employee, resident or participant seeks to correct information pursuant to subsection 2, ~~it~~ **or requests a review of information pursuant to subsection 4,** it is within the discretion of the applicant or licensee whether to allow the employee, resident or participant to continue to work for or reside at the child care facility or participate in the

outdoor youth program, as applicable, except that the employee, resident or participant shall not have contact with a child without supervision during such a period.

Sec. 2. This act becomes effective on July 1, 2017.

Assemblyman Sprinkle moved the adoption of the amendment.

Remarks by Assemblyman Sprinkle.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 54.

Bill read second time and ordered to third reading.

Senate Bill No. 64.

Bill read second time and ordered to third reading.

Senate Bill No. 78.

Bill read second time and ordered to third reading.

Senate Bill No. 101.

Bill read second time.

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

Amendment No. 666.

SUMMARY—Restricts the authority to ~~administer~~ **inject** neuromodulators derived from *Clostridium botulinum* and dermal and soft tissue fillers to certain medical professionals. (BDR 40-677)

AN ACT relating to professions; prohibiting the injection of neuromodulators derived from *Clostridium botulinum*, neuromodulators that are biosimilar to or the bioequivalent of such neuromodulators and dermal and soft tissue fillers by certain persons and under certain conditions; authorizing the imposition of professional discipline against persons who violate such a prohibition; requiring certain persons to receive training before injecting neuromodulators derived from *Clostridium botulinum*, neuromodulators that are biosimilar to or the bioequivalent of such neuromodulators or dermal or soft tissue fillers; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a medical assistant who is directed and supervised by a physician or physician assistant or a licensed dental hygienist who is directed and supervised by a dentist to possess and administer dangerous drugs under certain circumstances. (NRS 454.213) Existing law further requires the Board of Medical Examiners to adopt regulations governing the administration of botulinum toxin, commonly known as Botox, by a medical assistant or any person under the jurisdiction of the Board. (NRS ~~630.047,~~ 630.138)

This bill: (1) replaces the term “botulinum toxin” with references to neuromodulators derived from *Clostridium botulinum* or **neuromodulators** that are biosimilar to or the bioequivalent of such neuromodulators; and (2) revises provisions governing the injection of such neuromodulators and dermal or soft tissue fillers. **Section 2** of this bill removes the requirement for the Board of Medical Examiners to adopt regulations governing the administration of botulinum toxin by a medical assistant. Instead, **sections 1 and 1.8** of this bill prohibit: (1) any person other than a physician, physician assistant, dentist, registered nurse, advanced practice registered nurse or podiatric physician ~~[who has received training prescribed by his or her licensing board from injecting]~~ **from injecting** a neuromodulator derived from *Clostridium botulinum*, a neuromodulator that is biosimilar to or the bioequivalent of such a neuromodulator or dermal or soft tissue fillers; (2) such persons from delegating such injection to an unauthorized person; and (3) any person from injecting a neuromodulator derived from *Clostridium botulinum*, a neuromodulator that is biosimilar to or the bioequivalent of such a neuromodulator or dermal or soft tissue fillers outside his or her scope of practice or in a location other than a medical facility or the office of an authorized medical professional. **Sections 1.3, 4 and 6.6** of this bill make conforming changes to clarify that unauthorized medical professionals are prohibited from injecting such neuromodulators and dermal or soft tissue fillers. **Sections** ~~[1.9, 3.3, 6.4, 6.9]~~ **and 7.2** of this bill require the ~~[Board of Medical Examiners,]~~ Board of Dental Examiners of Nevada ~~[, State Board of Nursing, State Board of Osteopathic Medicine]~~ and **the** State Board of Podiatry, respectively, to prescribe training for ~~[physicians and physician assistants,]~~ dentists ~~[, registered nurses, advanced practice registered nurses, osteopathic physicians and physician assistants]~~ and podiatric physicians, as applicable, ~~[who wish]~~ **which must be completed before a dentist or podiatric physician is authorized** to inject such neuromodulators or dermal or soft tissue fillers.

Existing law generally provides that a violation of the provisions of law governing dangerous drugs is a misdemeanor and grounds for the suspension or revocation of certain professional licenses. (NRS 454.356, 454.361) Existing law further provides that a person who violates a provision of law governing dangerous drugs by using a minor as an agent or who illegally provides a dangerous drug to a minor is guilty of a category B felony. (NRS 454.306) **Sections 1.4-1.6** of this bill make these provisions applicable to the unauthorized injection of or delegation of the injection of a neuromodulator derived from *Clostridium botulinum* or a neuromodulator that is biosimilar to or the bioequivalent of such a neuromodulator. **Section 1.8** of this bill similarly makes the unauthorized injection of or delegation of the injection of dermal or soft tissue fillers a misdemeanor. **Sections 3, 6, 6.8, 7, 7.5 and 7.8** of this bill authorize the Board of Medical Examiners, Board of Dental Examiners of Nevada, State Board of Nursing, State Board of Osteopathic Medicine, State Board of Podiatry and State Board of Cosmetology to

impose disciplinary action against licensees who violate prohibitions on the unauthorized injection of or delegation of the injection of a neuromodulator derived from *Clostridium botulinum* or a neuromodulator that is biosimilar to or the bioequivalent of such a neuromodulator or dermal or soft tissue fillers.

Section 1.2 of this bill updates the definition of the term “dangerous drug” to reflect the current terminology used in federal regulations.

WHEREAS, Neuromodulators derived from *Clostridium botulinum* or that are biosimilar to or the bioequivalent of such neuromodulators are considered dangerous drugs in this State; and

WHEREAS, Only certain medical professionals are authorized under the law of this State to administer dangerous drugs; and

WHEREAS, The improper injection of neuromodulators derived from *Clostridium botulinum*, neuromodulators that are biosimilar to or the bioequivalent of such neuromodulators and dermal and soft tissue fillers can cause significant harmful side effects; and

WHEREAS, Persons who lack the necessary training or proper credentials are currently not restricted from injecting neuromodulators derived from *Clostridium botulinum*, neuromodulators that are biosimilar to or the bioequivalent of such neuromodulators and dermal and soft tissue fillers in this State; and

WHEREAS, To promote the health, safety and welfare of the residents of this State, it is the intent of the Legislature to clearly define the persons who are authorized to inject neuromodulators derived from *Clostridium botulinum*, neuromodulators that are biosimilar to or the bioequivalent of such neuromodulators and dermal and soft tissue fillers, and the conditions under which such injections may occur; now, therefore,

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

Section 1. Chapter 454 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not inject a neuromodulator that is derived from Clostridium botulinum or is biosimilar to or the bioequivalent of such a neuromodulator:

(a) Unless the person is:

(1) A physician or physician assistant licensed pursuant to chapter 630 of NRS ; ~~who has successfully completed the training prescribed by the Board of Medical Examiners pursuant to section 1.9 of this act;~~

(2) A dentist who has successfully completed the training prescribed by the Board of Dental Examiners of Nevada pursuant to section 3.3 of this act;

(3) A registered nurse or advanced practice registered nurse ; ~~who has successfully completed the training prescribed by the State Board of Nursing pursuant to section 6.4 of this act;~~

(4) *A physician or physician assistant licensed pursuant to chapter 633 of NRS ; ~~who has successfully completed the training prescribed by the State Board of Osteopathic Medicine pursuant to 6.9 of this act;~~ or*

(5) *A podiatric physician who has successfully completed the training prescribed by the State Board of Podiatry pursuant to section 7.2 of this act.*

(b) *Outside his or her scope of practice.*

(c) *At a location other than a medical facility, as defined in NRS 449.0151, or the office of a physician or physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, advanced practice registered nurse or podiatric physician.*

2. *A person who is authorized by subsection 1 to inject a neuromodulator described in that subsection shall not delegate such injection to a person who is prohibited by subsection 1 from injecting such a neuromodulator.*

Sec. 1.1. NRS 454.181 is hereby amended to read as follows:

454.181 Definitions of words and terms in NRS 454.00922, 454.191, 454.201 and 454.211 apply only to NRS 454.181 to 454.371, inclusive ~~} }~~, *and section 1 of this act.*

Sec. 1.15. NRS 454.191 is hereby amended to read as follows:

454.191 “Administer” means the direct application of a drug or medicine referred to in NRS 454.181 to 454.371, inclusive, *and section 1 of this act*, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject.

Sec. 1.2. NRS 454.201 is hereby amended to read as follows:

454.201 “Dangerous drug” means any drug, other than a controlled substance, unsafe for self-medication or unsupervised use, and includes the following:

1. Any drug which has been approved by the Food and Drug Administration for general distribution and bears the legend ~~{ “Caution: Federal law prohibits dispensing without prescription.”; }~~ *“Rx only”;*

2. Procaine hydrochloride with preservatives and stabilizers (Gerovital H3) in injectable doses and amygdalin (laetrile) which have been licensed by the State Board of Health for manufacture in this State but have not been approved as drugs by the Food and Drug Administration; or

3. Any drug which, pursuant to the Board’s regulations, may be sold only by prescription because the Board has found those drugs to be dangerous to public health or safety.

Sec. 1.3. NRS 454.213 is hereby amended to read as follows:

454.213 1. ~~{A}~~ *Except as otherwise provided in section 1 of this act, a drug or medicine referred to in NRS 454.181 to 454.371, inclusive, and section 1 of this act may be possessed and administered by:*

(a) A practitioner.

(b) A physician assistant licensed pursuant to chapter 630 or 633 of NRS, at the direction of his or her supervising physician or a licensed dental hygienist acting in the office of and under the supervision of a dentist.

(c) Except as otherwise provided in paragraph (d), a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practice registered nurse, or pursuant to a chart order, for administration to a patient at another location.

(d) In accordance with applicable regulations of the Board, a registered nurse licensed to practice professional nursing or licensed practical nurse who is:

(1) Employed by a health care agency or health care facility that is authorized to provide emergency care, or to respond to the immediate needs of a patient, in the residence of the patient; and

(2) Acting under the direction of the medical director of that agency or facility who works in this State.

(e) A medication aide - certified at a designated facility under the supervision of an advanced practice registered nurse or registered nurse and in accordance with standard protocols developed by the State Board of Nursing. As used in this paragraph, "designated facility" has the meaning ascribed to it in NRS 632.0145.

(f) Except as otherwise provided in paragraph (g), an advanced emergency medical technician or a paramedic, as authorized by regulation of the State Board of Pharmacy and in accordance with any applicable regulations of:

(1) The State Board of Health in a county whose population is less than 100,000;

(2) A county board of health in a county whose population is 100,000 or more; or

(3) A district board of health created pursuant to NRS 439.362 or 439.370 in any county.

(g) An advanced emergency medical technician or a paramedic who holds an endorsement issued pursuant to NRS 450B.1975, under the direct supervision of a local health officer or a designee of the local health officer pursuant to that section.

(h) A respiratory therapist employed in a health care facility. The therapist may possess and administer respiratory products only at the direction of a physician.

(i) A dialysis technician, under the direction or supervision of a physician or registered nurse only if the drug or medicine is used for the process of renal dialysis.

(j) A medical student or student nurse in the course of his or her studies at an accredited college of medicine or approved school of professional or practical nursing, at the direction of a physician and:

(1) In the presence of a physician or a registered nurse; or

(2) Under the supervision of a physician or a registered nurse if the student is authorized by the college or school to administer the drug or medicine outside the presence of a physician or nurse.

↳ A medical student or student nurse may administer a dangerous drug in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer it personally.

(k) Any person designated by the head of a correctional institution.

(l) An ultimate user or any person designated by the ultimate user pursuant to a written agreement.

(m) A nuclear medicine technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

(n) A radiologic technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

(o) A chiropractic physician, but only if the drug or medicine is a topical drug used for cooling and stretching external tissue during therapeutic treatments.

(p) A physical therapist, but only if the drug or medicine is a topical drug which is:

(1) Used for cooling and stretching external tissue during therapeutic treatments; and

(2) Prescribed by a licensed physician for:

(I) Iontophoresis; or

(II) The transmission of drugs through the skin using ultrasound.

(q) In accordance with applicable regulations of the State Board of Health, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.

(r) A veterinary technician or a veterinary assistant at the direction of his or her supervising veterinarian.

(s) In accordance with applicable regulations of the Board, a registered pharmacist who:

(1) Is trained in and certified to carry out standards and practices for immunization programs;

(2) Is authorized to administer immunizations pursuant to written protocols from a physician; and

(3) Administers immunizations in compliance with the “Standards for Immunization Practices” recommended and approved by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(t) A registered pharmacist pursuant to written guidelines and protocols developed and approved pursuant to NRS 639.2809.

(u) A person who is enrolled in a training program to become a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, advanced emergency medical technician, paramedic, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist,

physical therapist or veterinary technician if the person possesses and administers the drug or medicine in the same manner and under the same conditions that apply, respectively, to a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, advanced emergency medical technician, paramedic, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician who may possess and administer the drug or medicine, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

(v) A medical assistant, in accordance with applicable regulations of the:

(1) Board of Medical Examiners, at the direction of the prescribing physician and under the supervision of a physician or physician assistant.

(2) State Board of Osteopathic Medicine, at the direction of the prescribing physician and under the supervision of a physician or physician assistant.

2. As used in this section, “accredited college of medicine” has the meaning ascribed to it in NRS 453.375.

Sec. 1.4. NRS 454.306 is hereby amended to read as follows:

454.306 A person who violates any provision of NRS 454.181 to 454.371, inclusive, **and section 1 of this act** by use of a minor as an agent or by unlawfully furnishing any dangerous drug to a minor is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of not more than 20 years, or by a fine of not more than \$20,000, or by both fine and imprisonment.

Sec. 1.5. NRS 454.356 is hereby amended to read as follows:

454.356 Except as otherwise specifically provided, every person who violates any provision of NRS 454.181 to 454.371, inclusive, **and section 1 of this act** is guilty of a misdemeanor.

Sec. 1.6. NRS 454.361 is hereby amended to read as follows:

454.361 A conviction of the violation of any of the provisions of NRS 454.181 to 454.371, inclusive, **and section 1 of this act** constitutes grounds for the suspension or revocation of any license issued to such person pursuant to the provisions of chapters 630, 631, 633, 635, 636, 638 or 639 of NRS.

Sec. 1.7. NRS 454.366 is hereby amended to read as follows:

454.366 The Board shall administer and enforce NRS 454.181 to 454.371, inclusive ~~[]~~, **and section 1 of this act**.

Sec. 1.8. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not inject dermal or soft tissue fillers:

(a) Unless the person is:

(1) A physician or physician assistant licensed pursuant to chapter 630 of NRS ; ~~who has successfully completed the training prescribed by the Board of Medical Examiners pursuant to section 1.9 of this act;~~

(2) A dentist who has successfully completed the training prescribed by the Board of Dental Examiners of Nevada pursuant to section 3.3 of this act;

(3) A registered nurse or advanced practice registered nurse ; ~~who has successfully completed the training prescribed by the State Board of Nursing pursuant to section 6.4 of this act;~~

(4) A physician or physician assistant licensed pursuant to chapter 633 of NRS ; ~~who has successfully completed the training prescribed by the State Board of Osteopathic Medicine pursuant to 6.9 of this act;~~ or

(5) A podiatric physician who has successfully completed the training prescribed by the State Board of Podiatry pursuant to section 7.2 of this act.

(b) Outside his or her scope of practice.

(c) At a location other than a medical facility or the office of a physician or physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, advanced practice registered nurse or podiatric physician.

2. A person who is authorized by subsection 1 to inject dermal or soft tissue fillers shall not delegate such injection to a person who is prohibited by subsection 1 from injecting dermal or soft tissue fillers.

3. A person who violates any provision of this section is guilty of a misdemeanor.

4. As used in this section, “dermal or soft tissue filler” means a material that is injected into the skin to fill in wrinkles or into the soft tissue to alter the contour of the soft tissue.

Sec. 1.9. ~~[Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The Board shall adopt regulations prescribing the training that a physician or physician assistant must receive before injecting:~~

~~(a) A neuromodulator that is derived from Clostridium botulinum;~~

~~(b) A neuromodulator that is biosimilar to or the bioequivalent of a neuromodulator described in paragraph (a); or~~

~~(c) Dermal or soft tissue fillers.~~

~~2. A physician or physician assistant who has received the training prescribed pursuant to subsection 1 shall present proof of such training upon the request of a patient or any state or local governmental agency or agent thereof.~~

~~3. As used in this section “dermal or soft tissue filler” has the meaning ascribed to it in section 1.8 of this act.] (Deleted by amendment.)~~

Sec. 2. NRS 630.138 is hereby amended to read as follows:

630.138 The Board ~~]~~

~~1. May] may~~ adopt regulations governing the supervision of a medical assistant, including, without limitation, regulations which prescribe limitations on the possession and administration of a dangerous drug by a medical assistant.

~~[2.— Shall adopt regulations governing the possession and administration of botulinum toxin, commonly known as Botox, by a medical assistant or any other person, including, without limitation:~~

- ~~—(a) The qualifications and training required for administration; and
—(b) The manner and place of administration.]~~

Sec. 3. NRS 630.306 is hereby amended to read as follows:

630.306 1. The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

(a) Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

(b) Engaging in any conduct:

- (1) Which is intended to deceive;
- (2) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or
- (3) Which is in violation of a regulation adopted by the State Board of Pharmacy.

(c) Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law.

(d) Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

(e) Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he or she is not competent to perform or which are beyond the scope of his or her training.

(f) Performing, without first obtaining the informed consent of the patient or the patient's family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

(g) Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

(h) Habitual intoxication from alcohol or dependency on controlled substances.

(i) Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

(j) Failing to comply with the requirements of NRS 630.254.

(k) Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against the licensee or applicant by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of a license to practice medicine in another jurisdiction.

(l) Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or

applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

(m) Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

(n) Operation of a medical facility at any time during which:

(1) The license of the facility is suspended or revoked; or

(2) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

↪ This paragraph applies to an owner or other principal responsible for the operation of the facility.

(o) Failure to comply with the requirements of NRS 630.373.

(p) Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board.

(q) Knowingly or willfully procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:

(1) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(2) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328;

(3) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS; or

(4) Is an investigational drug or biological product prescribed to a patient pursuant to NRS 630.3735 or 633.6945.

(r) Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.

(s) Failure to comply with the provisions of NRS 630.3745.

(t) Failure to obtain any training required by the Board pursuant to NRS 630.2535.

(u) *Failure to comply with the provisions of section 1 or 1.8 of this act.*

2. As used in this section, “investigational drug or biological product” has the meaning ascribed to it in NRS 454.351.

Sec. 3.3. Chapter 631 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Board shall adopt regulations prescribing the training that a dentist must receive before injecting:*

(a) *A neuromodulator that is derived from Clostridium botulinum;*

(b) *A neuromodulator that is biosimilar to or the bioequivalent of a neuromodulator described in paragraph (a); or*

(c) *Dermal or soft tissue fillers.*

2. *A dentist who has received the training prescribed pursuant to subsection 1 shall present proof of such training upon the request of a patient or any state or local governmental agency or agent thereof.*

3. *As used in this section “dermal or soft tissue filler” has the meaning ascribed to it in section 1.8 of this act.*

Sec. 4. NRS 631.313 is hereby amended to read as follows:

631.313 1. ~~1.~~ *Except as otherwise provided in sections 1 and 1.8 of this act, a* licensed dentist may assign to a person in his or her employ who is a dental hygienist, dental assistant or other person directly or indirectly involved in the provision of dental care only such intraoral tasks as may be permitted by a regulation of the Board or by the provisions of this chapter.

2. The performance of these tasks must be:

(a) If performed by a dental assistant or a person, other than a dental hygienist, who is directly or indirectly involved in the provision of dental care, under the supervision of the licensed dentist who made the assignment.

(b) If performed by a dental hygienist, authorized by the licensed dentist of the patient for whom the tasks will be performed, except as otherwise provided in NRS 631.287.

3. No such assignment is permitted that requires:

(a) The diagnosis, treatment planning, prescribing of drugs or medicaments, or authorizing the use of restorative, prosthodontic or orthodontic appliances.

(b) Surgery on hard or soft tissues within the oral cavity or any other intraoral procedure that may contribute to or result in an irremediable alteration of the oral anatomy.

(c) The administration of general anesthesia, minimal sedation, moderate sedation or deep sedation except as otherwise authorized by regulations adopted by the Board.

(d) The performance of a task outside the authorized scope of practice of the employee who is being assigned the task.

4. A dental hygienist may, pursuant to regulations adopted by the Board, administer local anesthesia or nitrous oxide in a health care facility, as defined in NRS 162A.740, if:

(a) The dental hygienist is so authorized by the licensed dentist of the patient to whom the local anesthesia or nitrous oxide is administered; and

(b) The health care facility has licensed medical personnel and necessary emergency supplies and equipment available when the local anesthesia or nitrous oxide is administered.

Sec. 5. (Deleted by amendment.)

Sec. 6. NRS 631.3475 is hereby amended to read as follows:

631.3475 The following acts, among others, constitute unprofessional conduct:

1. Malpractice;
2. Professional incompetence;

3. Suspension or revocation of a license to practice dentistry, the imposition of a fine or other disciplinary action by any agency of another state authorized to regulate the practice of dentistry in that state;

4. More than one act by the dentist or dental hygienist constituting substandard care in the practice of dentistry or dental hygiene;

5. Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, if it is not required to treat the dentist's patient;

6. Knowingly procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:

(a) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(b) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or

(c) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS;

7. ***Failure to comply with the provisions of section 1 or 1.8 of this act;***

8. Chronic or persistent inebriety or addiction to a controlled substance, to such an extent as to render the person unsafe or unreliable as a practitioner, or such gross immorality as tends to bring reproach upon the dental profession;

~~8.~~ 9. Conviction of a felony or misdemeanor involving moral turpitude or which relates to the practice of dentistry in this State, or conviction of any criminal violation of this chapter;

~~9.~~ 10. Conviction of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

~~10.~~ 11. Failure to comply with the provisions of NRS 453.163 or 453.164;

~~11.~~ 12. Failure to obtain any training required by the Board pursuant to NRS 631.344; or

~~12.~~ 13. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

↪ This subsection applies to an owner or other principal responsible for the operation of the facility.

Sec. 6.2. Chapter 632 of NRS is hereby amended by adding thereto the provisions set forth as sections 6.3 and 6.4 of this act.

Sec. 6.3. ***“Dermal or soft tissue filler” has the meaning ascribed to it in section 1.8 of this act.***

Sec. 6.4. ~~1. The Board shall adopt regulations prescribing the training that a registered nurse or advanced practice registered nurse must receive before injecting:~~

~~(a) A neuromodulator that is derived from Clostridium botulinum;~~

~~(b) A neuromodulator that is biosimilar to or the bioequivalent of a neuromodulator described in paragraph (a); or~~

~~(c) Dermal or soft tissue fillers.~~

~~2. A registered nurse or advanced practice registered nurse who has received the training prescribed pursuant to subsection 1 shall present proof of such training upon the request of a patient or any state or local governmental agency or agent thereof. (Deleted by amendment.)~~

Sec. 6.5. NRS 632.010 is hereby amended to read as follows:

632.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 632.011 to 632.0195, inclusive, **and section 6.3 of this act** have the meanings ascribed to them in those sections.

Sec. 6.6. NRS 632.294 is hereby amended to read as follows:

632.294 1. A medication aide - certified may only administer authorized medications and perform related tasks at a designated facility under the supervision of an advanced practice registered nurse or a registered nurse and in accordance with standard protocols developed by the Board.

2. Except as otherwise provided by subsection 4, a medication aide - certified may only administer authorized medications by the following methods:

- (a) Orally;
- (b) Topically;
- (c) By the use of drops in the eye, ear or nose;
- (d) Vaginally;
- (e) Rectally;
- (f) Transdermally; and
- (g) By the use of an oral inhaler.

3. Except as otherwise provided by subsection 4, a medication aide - certified shall not:

- (a) Receive, have access to or administer any controlled substance;
- (b) Administer parenteral or enteral medications;
- (c) Administer any substances by nasogastric or gastrostomy tubes;
- (d) Calculate drug dosages;
- (e) Destroy medication;
- (f) Receive orders, either in writing or verbally, for new or changed medication;
- (g) Transcribe orders from medical records;
- (h) Order or administer initial medications;
- (i) Evaluate reports of medication errors;
- (j) Perform treatments;
- (k) Conduct patient assessments or evaluations;
- (l) Engage in teaching activities for patients; ~~or~~

(m) *Inject a neuromodulator that is derived from Clostridium botulinum or a neuromodulator that is biosimilar to or the bioequivalent of such a neuromodulator;*

(n) *Inject a dermal or soft tissue filler; or*

(o) Engage in any activity prohibited pursuant to subsection 4.

4. ~~The~~ *Except as otherwise provided in this subsection, the Board may adopt regulations authorizing or prohibiting any additional activities of a medication aide - certified. **The Board shall not adopt regulations authorizing a medication aide - certified to perform the tasks described in paragraph (m) or (n) of subsection 3.***

5. As used in this section, “supervision” means active oversight of the patient care services provided by a medication aide - certified while on the premises of a designated facility.

Sec. 6.8. NRS 632.347 is hereby amended to read as follows:

632.347 1. The Board may deny, revoke or suspend any license or certificate applied for or issued pursuant to this chapter, or take other disciplinary action against a licensee or holder of a certificate, upon determining that the licensee or certificate holder:

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

(b) Is guilty of any offense:

(1) Involving moral turpitude; or

(2) Related to the qualifications, functions or duties of a licensee or holder of a certificate,

↳ in which case the record of conviction is conclusive evidence thereof.

(c) Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

(d) Is unfit or incompetent by reason of gross negligence or recklessness in carrying out usual nursing functions.

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

(f) Is a person with mental incompetence.

(g) Is guilty of unprofessional conduct, which includes, but is not limited to, the following:

(1) Conviction of practicing medicine without a license in violation of chapter 630 of NRS, in which case the record of conviction is conclusive evidence thereof.

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

(3) Impersonating another licensed practitioner or holder of a certificate.

(4) Permitting or allowing another person to use his or her license or certificate to practice as a licensed practical nurse, registered nurse, nursing assistant or medication aide - certified.

(5) Repeated malpractice, which may be evidenced by claims of malpractice settled against the licensee or certificate holder.

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

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

(h) Has willfully or repeatedly violated the provisions of this chapter. The voluntary surrender of a license or certificate issued pursuant to this chapter is prima facie evidence that the licensee or certificate holder has committed or expects to commit a violation of this chapter.

(i) Is guilty of aiding or abetting any person in a violation of this chapter.

(j) Has falsified an entry on a patient's medical chart concerning a controlled substance.

(k) Has falsified information which was given to a physician, pharmacist, podiatric physician or dentist to obtain a controlled substance.

(l) Has knowingly procured or administered a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:

(1) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(2) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328;

(3) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS; or

(4) Is an investigational drug or biological product prescribed to a patient pursuant to NRS 630.3735 or 633.6945.

(m) Has been disciplined in another state in connection with a license to practice nursing or a certificate to practice as a nursing assistant or medication aide - certified, or has committed an act in another state which would constitute a violation of this chapter.

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

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

(p) Has operated a medical facility at any time during which:

(1) The license of the facility was suspended or revoked; or

(2) An act or omission occurred which resulted in the suspension or revocation of the license pursuant to NRS 449.160.

➔ This paragraph applies to an owner or other principal responsible for the operation of the facility.

(q) *Has violated the provisions of section 1 or 1.8 of this act.*

(r) Is an advanced practice registered nurse who has failed to obtain any training required by the Board pursuant to NRS 632.2375.

~~{(s)}~~ (s) Is an advanced practice registered nurse who has failed to comply with the provisions of NRS 453.163 or 453.164.

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

3. A licensee or certificate holder is not subject to disciplinary action solely for administering auto-injectable epinephrine pursuant to a valid order issued pursuant to NRS 630.374 or 633.707.

4. As used in this section, “investigational drug or biological product” has the meaning ascribed to it in NRS 454.351.

Sec. 6.9. ~~[Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The Board shall adopt regulations prescribing the training that an osteopathic physician or physician assistant must receive before injecting:~~

~~(a) A neuromodulator that is derived from *Clostridium botulinum*;~~

~~(b) A neuromodulator that is biosimilar to or the bioequivalent of a neuromodulator described in paragraph (a); or~~

~~(c) Dermal or soft tissue fillers;~~

~~2. An osteopathic physician or physician assistant who has received the training prescribed pursuant to subsection 1 shall present proof of such training upon the request of a patient or any state or local governmental agency or agent thereof.~~

~~3. As used in this section “dermal or soft tissue filler” has the meaning ascribed to it in section 1.8 of this act.] (Deleted by amendment.)~~

Sec. 7. NRS 633.511 is hereby amended to read as follows:

633.511 1. The grounds for initiating disciplinary action pursuant to this chapter are:

(a) Unprofessional conduct.

(b) Conviction of:

(1) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(2) A felony relating to the practice of osteopathic medicine or practice as a physician assistant;

(3) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(4) Murder, voluntary manslaughter or mayhem;

(5) Any felony involving the use of a firearm or other deadly weapon;

(6) Assault with intent to kill or to commit sexual assault or mayhem;

(7) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(8) Abuse or neglect of a child or contributory delinquency; or

(9) Any offense involving moral turpitude.

(c) The suspension of a license to practice osteopathic medicine or to practice as a physician assistant by any other jurisdiction.

(d) Malpractice or gross malpractice, which may be evidenced by a claim of malpractice settled against a licensee.

(e) Professional incompetence.

(f) Failure to comply with the requirements of NRS 633.527.

(g) Failure to comply with the requirements of subsection 3 of NRS 633.471.

(h) Failure to comply with the provisions of NRS 633.694.

(i) Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(1) The license of the facility is suspended or revoked; or

(2) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➔ This paragraph applies to an owner or other principal responsible for the operation of the facility.

(j) Failure to comply with the provisions of subsection 2 of NRS 633.322.

(k) Signing a blank prescription form.

(l) Knowingly or willfully procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:

(1) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(2) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328;

(3) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS; or

(4) Is an investigational drug or biological product prescribed to a patient pursuant to NRS 630.3735 or 633.6945.

(m) Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

(n) Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

(o) In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or knowingly or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

(p) Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board within 30 days after the date the licensee knows or has reason to know of the violation.

(q) Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

(r) Engaging in any act that is unsafe in accordance with regulations adopted by the Board.

(s) Failure to comply with the provisions of NRS 629.515.

(t) Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.

(u) Failure to obtain any training required by the Board pursuant to NRS 633.473.

(v) Failure to comply with the provisions of NRS 633.6955.

(w) Failure to comply with the provisions of NRS 453.163 or 453.164.

(x) ***Failure to comply with the provisions of section 1 or 1.8 of this act.***

2. As used in this section, “investigational drug or biological product” has the meaning ascribed to it in NRS 454.351.

Sec. 7.2. Chapter 635 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Board shall adopt regulations prescribing the training that a podiatric physician must receive before injecting:*

(a) A neuromodulator that is derived from Clostridium botulinum;

(b) A neuromodulator that is biosimilar to or the bioequivalent of a neuromodulator described in paragraph (a); or

(c) Dermal or soft tissue fillers.

2. *A podiatric physician who has received the training prescribed pursuant to subsection 1 shall present proof of such training upon the request of a patient or any state or local governmental agency or agent thereof.*

3. *As used in this section “dermal or soft tissue filler” has the meaning ascribed to it in section 1.8 of this act.*

Sec. 7.5. NRS 635.130 is hereby amended to read as follows:

635.130 1. The Board, after notice and a hearing as required by law, and upon any cause enumerated in subsection 2, may take one or more of the following disciplinary actions:

(a) Deny an application for a license or refuse to renew a license.

(b) Suspend or revoke a license.

(c) Place a licensee on probation.

(d) Impose a fine not to exceed \$5,000.

2. The Board may take disciplinary action against a licensee for any of the following causes:

(a) The making of a false statement in any affidavit required of the applicant for application, examination or licensure pursuant to the provisions of this chapter.

(b) Lending the use of the holder’s name to an unlicensed person.

(c) If the holder is a podiatric physician, permitting an unlicensed person in his or her employ to practice as a podiatry hygienist.

(d) Habitual indulgence in the use of alcohol or any controlled substance which impairs the intellect and judgment to such an extent as in the opinion of the Board incapacitates the holder in the performance of his or her professional duties.

(e) Conviction of a crime involving moral turpitude.

(f) Conviction of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

(g) Conduct which in the opinion of the Board disqualifies the licensee to practice with safety to the public.

(h) The commission of fraud by or on behalf of the licensee regarding his or her license or practice.

(i) Gross incompetency.

(j) Affliction of the licensee with any mental or physical disorder which seriously impairs his or her competence as a podiatric physician or podiatry hygienist.

(k) False representation by or on behalf of the licensee regarding his or her practice.

(l) Unethical or unprofessional conduct.

(m) Failure to comply with the requirements of subsection 1 of NRS 635.118.

(n) Willful or repeated violations of this chapter or regulations adopted by the Board.

(o) Willful violation of the regulations adopted by the State Board of Pharmacy.

(p) Knowingly procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:

(1) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(2) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or

(3) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS.

(q) Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(1) The license of the facility is suspended or revoked; or

(2) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➔ This paragraph applies to an owner or other principal responsible for the operation of the facility.

(r) Failure to obtain any training required by the Board pursuant to NRS 635.116.

(s) Failure to comply with the provisions of NRS 453.163 and 453.164.

(t) Failure to comply with the provisions of section 1 or 1.8 of this act.

Sec. 7.8. NRS 644.430 is hereby amended to read as follows:

644.430 1. The following are grounds for disciplinary action by the Board:

(a) Failure of an owner of an establishment for hair braiding, a cosmetological establishment, a licensed or registered, as applicable, aesthetician, cosmetologist, hair designer, shampoo technologist, hair braider, electrologist, instructor, nail technologist, demonstrator of cosmetics, makeup artist or school of cosmetology to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(b) Failure of a cosmetologist's apprentice, electrologist's apprentice, aesthetician's apprentice, hair designer's apprentice or nail technologist's apprentice to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(c) Obtaining practice in cosmetology or any branch thereof, for money or any thing of value, by fraudulent misrepresentation.

(d) Gross malpractice.

(e) Continued practice by a person knowingly having an infectious or contagious disease.

(f) Drunkenness or the use or possession, or both, of a controlled substance or dangerous drug without a prescription, while engaged in the practice of cosmetology.

(g) Advertising in violation of any of the provisions of NRS 644.422 or 644.478.

(h) Permitting a license to be used where the holder thereof is not personally, actively and continuously engaged in business.

(i) Failure to display the license or a duplicate of the license as provided in NRS 644.290, 644.360, 644.3774 and 644.410.

(j) Failure to display the certificate of registration or a duplicate of the certificate of registration as provided in NRS 644.2175.

(k) Entering, by a school of cosmetology, into an unconscionable contract with a student of cosmetology.

(l) Continued practice of cosmetology or operation of a cosmetological establishment or school of cosmetology after the license therefor has expired.

(m) Failure to comply with the provisions of section 1 or 1.8 of this act.

(n) Any other unfair or unjust practice, method or dealing which, in the judgment of the Board, may justify such action.

2. If the Board determines that a violation of this section has occurred, it may:

(a) Refuse to issue or renew a license or certificate of registration;

(b) Revoke or suspend a license or certificate of registration;

(c) Place the licensee or holder of a certificate of registration on probation for a specified period;

(d) Impose a fine not to exceed \$2,000; or

(e) Take any combination of the actions authorized by paragraphs (a) to (d), inclusive.

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

Sec. 8. This act becomes effective on July 1, 2017.

Assemblyman Sprinkle moved the adoption of the amendment.

Remarks by Assemblyman Sprinkle.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 118.

Bill read second time and ordered to third reading.

Senate Bill No. 127.

Bill read second time and ordered to third reading.

Senate Bill No. 145.

Bill read second time and ordered to third reading.

Senate Bill No. 146.

Bill read second time and ordered to third reading.

Senate Bill No. 156.

Bill read second time and ordered to third reading.

Senate Bill No. 159.

Bill read second time and ordered to third reading.

Senate Bill No. 191.

Bill read second time and ordered to third reading.

Senate Bill No. 204.

Bill read second time and ordered to third reading.

Senate Bill No. 215.

Bill read second time and ordered to third reading.

Senate Bill No. 245.

Bill read second time and ordered to third reading.

Senate Bill No. 312.

Bill read second time and ordered to third reading.

Senate Bill No. 314.

Bill read second time and ordered to third reading.

Senate Bill No. 339.

Bill read second time and ordered to third reading.

Senate Bill No. 416.

Bill read second time and ordered to third reading.

Senate Bill No. 429.

Bill read second time and ordered to third reading.

Senate Bill No. 469.

Bill read second time and ordered to third reading.

Senate Bill No. 510.

Bill read second time and ordered to third reading.

Senate Joint Resolution No. 4.

Resolution read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Carlton moved that upon return from the printer, Assembly Bill No. 280 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblywoman Carlton moved that Senate Bill No. 146 be rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 181.

Bill read third time.

The following amendment was proposed by Assemblyman Frierson:

Amendment No. 760.

SUMMARY—Revises provisions governing the restoration of civil rights for **certain** ex-felons. (BDR 14-720)

AN ACT relating to civil rights; revising provisions governing the restoration of civil rights to certain persons who have been convicted of felonies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, unless a person has been convicted of certain specified felonies, a person who has been convicted of a felony is restored to his or her civil rights by operation of law upon: (1) an honorable discharge from probation; (2) an honorable discharge from parole; or (3) the completion of his or her sentence and release from prison. Conversely, a person must petition a court for the restoration of his or her civil rights if the person was convicted: (1) of a category A felony; (2) of an offense that would constitute a category A felony if committed as of the date of discharge from probation, discharge from parole or release from prison; (3) of a category B felony involving the use of force or violence that resulted in substantial bodily harm;

(4) of an offense involving the use of force or violence that resulted in substantial bodily harm and that would constitute a category B felony if committed as of the date of discharge from probation, discharge from parole or release from prison; or (5) two or more times of a felony, except under certain circumstances. (NRS 176A.850, 213.155, 213.157) **Sections 1-3** of this bill provide, respectively, that **a probationer, parolee or person who completed his or her sentence and was released from prison is, with certain exceptions, immediately restored to the right: (1) to serve as a juror in a civil action; and (2) to vote. Sections 1-3 provide, respectively, that** if the probationer, parolee or person who completed his or her sentence and was released from prison was convicted ~~[(1) two or more times]~~ of a **category B** felony ~~[, his or her right to vote must be restored immediately after discharge from probation, discharge from parole or release from prison; and (2) of any of the other offenses enumerated above,]~~ **involving the use of force or violence that did not result in substantial bodily harm to the victim or of an offense involving the use of force or violence that did not result in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of discharge from probation, discharge from parole or release from prison,** his or her right to vote must be restored 2 years after discharge from probation, discharge from parole or release from prison.

Existing law sets forth circumstances under which a person whose term of probation has expired must be given a dishonorable discharge and precludes the probationer from obtaining the restoration of certain civil rights. (NRS 176A.870) **Section 1** maintains the requirement that such a probationer be given a dishonorable discharge, but **section 5** of this bill eliminates the prohibition on the restoration of civil rights.

Section 4 of this bill provides for the restoration of civil rights to **certain** residents of this State who: (1) have not had their civil rights restored; (2) are not on probation or parole or serving a sentence of imprisonment on ~~[October]~~ **January 1, [2017,] 2019;** and (3) before ~~[October]~~ **January 1, [2017,] 2019,** were discharged from probation or parole or released from prison after serving their sentences.

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

Section 1. NRS 176A.850 is hereby amended to read as follows:

176A.850 1. A person who:

- (a) Has fulfilled the conditions of probation for the entire period thereof;
 - (b) Is recommended for earlier discharge by the Division; or
 - (c) Has demonstrated fitness for honorable discharge but because of economic hardship, verified by the Division, has been unable to make restitution as ordered by the court,
- ➔ may be granted an honorable discharge from probation by order of the court.

2. *A person whose term of probation has expired and:*

- (a) *Whose whereabouts are unknown;*
- (b) *Who has failed to make restitution in full as ordered by the court, without a verified showing of economic hardship; or*
- (c) *Who has otherwise failed to qualify for an honorable discharge as provided in subsection 1,*
 \hookrightarrow *is not eligible for an honorable discharge and must be given a dishonorable discharge. A dishonorable discharge releases the person from any further obligation, except as otherwise provided in subsection 3.*

3. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of discharge and is enforceable pursuant to NRS 176.275.

~~{3-}~~ 4. Except as otherwise provided in subsection {4-} 5, a

~~{4-} A~~ person who has been ~~{honorable}~~ discharged from probation:

- (a) Is free from the terms and conditions of probation.
- (b) Is immediately restored to the ~~{following civil rights:~~
 - ~~— (1) The right to vote; and~~
 - ~~— (2) The} right to serve as a juror in a civil action.~~
- (c) *Except as otherwise provided in paragraph (d), is immediately restored to the right to vote.*
- (d) *Two years after the date of discharge from probation, is restored to the right to vote if the person has previously been convicted in this State:*
 - (1) ~~{Of a category A felony.~~
 - ~~(2) Of an offense that would constitute a category A felony if committed as of the date of discharge from probation.~~
 - ~~(3) Of a category B felony involving the use of force or violence, that resulted in substantial bodily harm to the victim.~~
 - ~~(4) (2) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and} that would constitute a category B felony if committed as of the date of discharge from probation.~~
- (e) Four years after the date of ~~{honorable}~~ discharge from probation, is restored to the right to hold office.

~~{(d)}~~ (f) Six years after the date of ~~{honorable}~~ discharge from probation, is restored to the right to serve as a juror in a criminal action.

~~{(e)}~~ (g) If the person meets the requirements of NRS 179.245, may apply to the court for the sealing of records relating to the conviction.

~~{(f)}~~ (h) Must be informed of the provisions of this section and NRS 179.245 in the person's probation papers.

~~{(g)}~~ (i) Is exempt from the requirements of chapter 179C of NRS, but is not exempt from the requirements of chapter 179D of NRS.

~~{(h)}~~ (j) Shall disclose the conviction to a gaming establishment and to the State and its agencies, departments, boards, commissions and political subdivisions, if required in an application for employment, license or other

permit. As used in this paragraph, "establishment" has the meaning ascribed to it in NRS 463.0148.

~~{(i)}~~ (k) Except as otherwise provided in paragraph ~~{(h)}~~ (j), need not disclose the conviction to an employer or prospective employer.

~~{4.} 5.~~ Except as otherwise provided in this subsection, the civil rights set forth in subsection ~~{3} 4~~ are not restored to a person ~~{honorably} discharged from probation if the person has previously been convicted in this State:~~

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of ~~{the honorable} discharge from probation.~~

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of ~~{honorable} discharge from probation.~~

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

↪ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of civil rights as set forth in subsection ~~{3.} 4.~~

~~{5.} 6.~~ The prior conviction of a person who has been ~~{honorably} discharged from probation~~ may be used for purposes of impeachment. In any subsequent prosecution of the person, the prior conviction may be pleaded and proved if otherwise admissible.

~~{6.} 7.~~ Except for a person subject to the limitations set forth in subsection ~~{4.} 5,~~ upon ~~{honorable} discharge from probation,~~ the person so discharged must be given an official document which provides:

(a) That the person has received an honorable discharge **or dishonorable discharge, as applicable**, from probation;

(b) That the person ~~{has been}~~ is restored to his or her civil rights to vote and to serve as a juror in a civil action as of the ~~{date of honorable discharge from probation;}~~ **applicable dates set forth in paragraphs (b), (c) and (d) of subsection 4;**

(c) The date on which the person's civil right to hold office will be restored pursuant to paragraph ~~{(e)}~~ (e) of subsection ~~{3;} 4;~~ and

(d) The date on which the person's civil right to serve as a juror in a criminal action will be restored pursuant to paragraph ~~{(d)}~~ (f) of subsection ~~{3.} 4.~~

~~{7.} 8.~~ Subject to the limitations set forth in subsection ~~{4.} 5,~~ a ~~{4.}~~ person who has been ~~{honorably} discharged from probation in this State or elsewhere and whose official documentation of ~~{honorable} discharge from probation is lost, damaged or destroyed may file a written request with a~~~~

court of competent jurisdiction to restore the person's civil rights pursuant to this section. Upon verification that the person has been ~~honorably~~ discharged from probation and is eligible to be restored to the civil rights set forth in subsection ~~3,~~ 4, the court shall issue an order restoring the person to the civil rights set forth in subsection ~~3,~~ 4. A person must not be required to pay a fee to receive such an order.

~~8,~~ 9. A person who has been ~~honorably~~ discharged from probation in this State or elsewhere may present:

(a) Official documentation of ~~honorably~~ discharge from probation, if it contains the provisions set forth in subsection ~~6,~~ 7; or

(b) A court order restoring the person's civil rights,
 as proof that the person has been restored to the civil rights set forth in subsection ~~3,~~ 4.

Sec. 2. NRS 213.155 is hereby amended to read as follows:

213.155 1. Except as otherwise provided in subsection 2, a ~~4,~~ person who receives ~~an honorable~~ a discharge from parole pursuant to NRS 213.154:

(a) Is immediately restored to the ~~following civil rights:~~

~~—(1) The right to vote; and~~

~~—(2) The} right to serve as a juror in a civil action.~~

(b) *Except as otherwise provided in paragraph (c), is immediately restored to the right to vote.*

(c) *Two years after the date of his or her discharge from parole, is restored to the right to vote if the person has previously been convicted in this State:*

~~(1) *Of a category A felony;*~~

~~—(2) *Of an offense that would constitute a category A felony if committed as of the date of discharge from parole;*~~

~~—(3) *Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.*~~

~~—(4) *(2) Of an offense involving the use of force or violence ~~that resulted in substantial bodily harm to the victim and~~ that would constitute a category B felony if committed as of the date of discharge from parole.*~~

(d) Four years after the date of his or her ~~honorably~~ discharge from parole, is restored to the right to hold office.

~~{e)}~~ (e) Six years after the date of his or her ~~honorably~~ discharge from parole, is restored to the right to serve as a juror in a criminal action.

2. Except as otherwise provided in this subsection, the civil rights set forth in subsection 1 are not restored to a person who has received ~~an honorable~~ a discharge from parole if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of ~~his or her honorable~~ discharge from parole.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of ~~his or her honorable~~ discharge from parole.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

↪ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of his or her civil rights as set forth in subsection 1.

3. Except for a person subject to the limitations set forth in subsection 2, upon ~~Upon~~ his or her ~~honorable~~ discharge from parole, a person so discharged must be given an official document which provides:

(a) That the person has received an honorable discharge *or dishonorable discharge, as applicable*, from parole;

(b) That the person ~~has been~~ *is* restored to his or her civil rights to vote and to serve as a juror in a civil action as of the ~~date of his or her honorable discharge from parole;~~ *applicable dates set forth in paragraphs (a), (b) and (c) of subsection 1;*

(c) The date on which his or her civil right to hold office will be restored to the person pursuant to paragraph ~~(b)~~ *(d)* of subsection 1; and

(d) The date on which his or her civil right to serve as a juror in a criminal action will be restored to the person pursuant to paragraph ~~(c)~~ *(e)* of subsection 1.

4. Subject to the limitations set forth in subsection 2, a

~~3. A~~ person who has been ~~honorable~~ discharged from parole in this State or elsewhere and whose official documentation of his or her ~~honorable~~ discharge from parole is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has been ~~honorable~~ discharged from parole and is eligible to be restored to the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights set forth in subsection 1. A person must not be required to pay a fee to receive such an order.

5. ~~4.~~ A person who has been ~~honorable~~ discharged from parole in this State or elsewhere may present:

(a) Official documentation of his or her ~~honorable~~ discharge from parole, if it contains the provisions set forth in subsection 3; ~~2~~ or

(b) A court order restoring his or her civil rights,

↪ as proof that the person has been restored to the civil rights set forth in subsection 1.

6. ~~5.~~ The Board may adopt regulations necessary or convenient for the purposes of this section.

Sec. 3. NRS 213.157 is hereby amended to read as follows:

213.157 1. Except as otherwise provided in subsection 2, a ~~A~~ person convicted of a felony in the State of Nevada who has served his or her sentence and has been released from prison:

(a) Is immediately restored to the ~~following civil rights:~~

~~— (1) The right to vote; and~~

~~— (2) The right to serve as a juror in a civil action.~~

(b) *Except as otherwise provided in paragraph (c), is immediately restored to the right to vote.*

(c) *Two years after the date of his or her release from prison, is restored to the right to vote if the person has previously been convicted in this State:*

~~(1) *Of a category A felony.*~~

~~— (2) *Of an offense that would constitute a category A felony if committed as of the date of his or her release from prison.*~~

~~— (3) *Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.*~~

~~— (4) *(2) Of an offense involving the use of force or violence ~~that resulted in substantial bodily harm to the victim and~~ that would constitute a category B felony if committed as of the date of his or her release from prison.*~~

(d) Four years after the date of his or her release from prison, is restored to the right to hold office.

~~{(e)}~~ (e) Six years after the date of his or her release from prison, is restored to the right to serve as a juror in a criminal action.

2. Except as otherwise provided in this subsection, the civil rights set forth in subsection 1 are not restored to a person who has been released from prison if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of his or her release from prison.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his or her release from prison.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

↪ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of his or her civil rights as set forth in subsection 1.

3. Except for a person subject to the limitations set forth in subsection 2, ~~upon~~ ~~Upon~~ his or her release from prison, a person so released must be given an official document which provides:

- (a) That the person has been released from prison;
- (b) That the person ~~has been~~ ~~is~~ restored to his or her civil rights to vote and to serve as a juror in a civil action as of the ~~date of his or her release from prison;~~ *applicable dates set forth in paragraphs (a), (b) and (c) of subsection 1;*
- (c) The date on which his or her civil right to hold office will be restored to the person pursuant to paragraph ~~(b)~~ ~~(d)~~ of subsection 1; and
- (d) The date on which his or her civil right to serve as a juror in a criminal action will be restored to the person pursuant to paragraph ~~(e)~~ ~~(e)~~ of subsection 1.

4. Subject to the limitations set forth in subsection 2, a ~~3. A~~ person who has been released from prison in this State or elsewhere and whose official documentation of his or her release from prison is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has been released from prison and is eligible to be restored to the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights set forth in subsection 1. A person must not be required to pay a fee to receive such an order.

5. ~~4.~~ A person who has been released from prison in this State or elsewhere may present:

- (a) Official documentation of his or her release from prison, if it contains the provisions set forth in subsection 3; ~~2;~~ or
- (b) A court order restoring his or her civil rights,
 ↪ as proof that the person has been restored to the civil rights set forth in subsection 1.

Sec. 4. 1. Any person residing in this State who:

- (a) Is not subject to the provisions of subsection 2;
- (b) Before ~~October~~ **January 1, 2017; 2019,** was discharged from probation pursuant to NRS 176A.850 or 176A.870, discharged from parole pursuant to NRS 213.155 or released from prison pursuant to NRS 213.157, as those sections existed before ~~October~~ **January 1, 2017; 2019;**
- (c) Is not on probation or parole or serving a sentence of imprisonment on ~~October~~ **January 1, 2017; 2019;** and
- (d) Has not already had his or her civil rights restored,

↪ is immediately restored to the right to serve as a juror in a civil action and the right to vote. Four years after the date on which the person was discharged from probation, discharged from parole or released from prison, as applicable, he or she is restored to the right to hold office. Six years after the date on which the person was discharged from probation, discharged from parole or released from prison, as applicable, he or she is restored to the right to serve as a juror in a criminal action.

2. Any person residing in this State who:

(a) Before ~~October~~ **January 1, 2017; 2019:**

(1) Was discharged from probation pursuant to NRS 176A.850 or 176A.870, discharged from parole pursuant to NRS 213.155 or released from prison pursuant to NRS 213.157, as those sections existed before ~~October~~ **January 1, 2017; and 2019;**

(2) Was previously convicted in this State:

(I) Of a category B felony involving the use of force or violence;

or

(II) Of an offense involving the use of force or violence that would constitute a category B felony if committed as of the date of discharge from probation, discharge from parole or release from prison, as applicable; and

(3) Was not previously convicted in this State:

(I) Of a category A felony;

(II) Of an offense that would constitute a category A felony if committed as of the date of discharge from probation, discharge from parole or release from prison, as applicable;

(III) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim;

(IV) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of discharge from probation, discharge from parole or release from prison, as applicable; or

(V) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this sub-subparagraph;

(b) Is not on probation or parole or serving a sentence of imprisonment on ~~October~~ **January 1, 2017; 2019;** and

(c) Has not already had his or her civil rights restored,

↪ is immediately restored to the right to serve as a juror in a civil action. Two years after the date on which the person was discharged from probation, discharged from parole or released from prison, as applicable, he or she is restored to the right to vote. Four years after the date on which the person was discharged from probation, discharged from parole or released from prison, as applicable, he or she is restored to the right to hold office. Six years after the date on which the person was discharged from probation, discharged from parole or released from prison, as applicable, he or she is restored to the right to serve as a juror in a criminal action.

3. A person who is restored to his or her civil rights pursuant to this section and whose official documentation which demonstrates that the person qualifies to have his or her civil rights restored pursuant to this section is lost, damaged or destroyed may file a written request with a court of competent

jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person qualifies to have his or her civil rights restored pursuant to this section, the court shall issue an order restoring the person to the civil rights set forth in this section. A person must not be required to pay a fee to receive such an order.

4. A person who is restored to his or her civil rights pursuant to this section may present official documentation that he or she qualifies to have his or her civil rights restored pursuant to this section or a court order restoring his or her civil rights as proof that he or she has been restored to the civil rights set forth in this section.

Sec. 5. NRS 176A.870 is hereby repealed.

Sec. 6. **This act becomes effective on January 1, 2019.**

TEXT OF REPEALED SECTION

176A.870 Dishonorable discharge. A defendant whose term of probation has expired and:

1. Whose whereabouts are unknown;
 2. Who has failed to make restitution in full as ordered by the court, without a verified showing of economic hardship; or
 3. Who has otherwise failed to qualify for an honorable discharge as provided in NRS 176A.850,
- ↪ is not eligible for an honorable discharge and must be given a dishonorable discharge. A dishonorable discharge releases the probationer from any further obligation, except a civil liability arising on the date of discharge for any unpaid restitution which is enforceable pursuant to NRS 176.275, but does not entitle the probationer to any privilege conferred by NRS 176A.850.

Assemblyman Ohrenschall moved the adoption of the amendment.

Remarks by Assemblyman Ohrenschall.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 110.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

Assembly Bill 110, as amended, requires the Department of Education to establish a pilot program to provide competency-based education and conduct one or more meetings with school districts and a public campaign to raise awareness of the program. The bill also appropriates \$1,500 in each year of the biennium to the Department for travel-related costs associated with meetings conducted with superintendents of the school districts and authorizes the Department to establish a competitive grant program to carry out the pilot program to provide competency-based education to the extent funding is available.

The bill further revises provisions related to the requirements for a pupil to receive credit for certain courses in lieu of course attendance. Lastly, the bill requires the Department of

Education to establish a Competency-Based Education Network and prescribes the membership and duties of the network, including reporting requirements.

The bill becomes effective upon passage and approval for the purpose of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act and on July 1, 2017, for all other purposes.

Roll call on Assembly Bill No. 110:

YEAS—42.

NAYS—None.

Assembly Bill No. 110 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 278.

Bill read third time.

Remarks by Assemblyman Sprinkle.

ASSEMBLYMAN SPRINKLE:

Assembly Bill 278, as amended, creates the Committee to Review Child Support Guidelines and requires the Committee to review the existing child support guidelines established in this state and provide any recommendations for revisions to the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services by July 1, 2018. The Committee must review the guidelines at least once every four years.

The Administrator is required to review and consider any recommendations of the Committee and adopt regulations establishing the child support guidelines. The child support guidelines that are adopted by the Administrator are required to be adopted in accordance with the Nevada Administrative Procedures Act and codified in the Nevada Administrative Code.

Roll call on Assembly Bill No. 278:

YEAS—42.

NAYS—None.

Assembly Bill No. 278 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 447.

Bill read third time.

Remarks by Assemblywoman Diaz.

ASSEMBLYWOMAN DIAZ:

Assembly Bill 447, as amended, continues the Victory schools program for the 2017-19 biennium, requires the Department of Education to consult with the board of trustees of a school district when designating Victory schools, removes the requirement to provide an expansion of full-day kindergarten classes, and adds evidence-based programs and integrated student supports to the list of items eligible for Victory schools program funding.

The bill becomes effective upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of the act and on July 1, 2017, for all other purposes.

Roll call on Assembly Bill No. 447:

YEAS—34.

NAYS—Ellison, Hambrick, Hansen, Krasner, Marchant, McArthur, Titus, Wheeler—8.

Assembly Bill No. 447 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 473.

Bill read third time.

Remarks by Assemblyman Araujo.

ASSEMBLYMAN ARAUJO:

Assembly Bill 473, as amended, extends the prospective expiration of the requirement to exclude certain atypical and typical antipsychotic medications, anticonvulsant medications, and antidiabetic medications from the restrictions that are imposed on drugs that are on the list of preferred prescription drugs. This extension has the effect of continuing the inclusion of those types of medications in the restrictions that are imposed on drugs that are on the list of preferred prescription drugs until June 30, 2019.

Roll call on Assembly Bill No. 473:

YEAS—42.

NAYS—None.

Assembly Bill No. 473 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 483.

Bill read third time.

Remarks by Assemblywoman Spiegel.

ASSEMBLYWOMAN SPIEGEL:

Assembly Bill 483 transfers the duty to administer the Program to Encourage and Facilitate Purchases by Agencies of Commodities and Services From Organizations from the Rehabilitation Division of the Department of Employment, Training, and Rehabilitation to the Purchasing Division of the Department of Administration. The Program aids in the purchase by public agencies of commodities and services from certain nonprofit organizations which train and employ persons with mental or physical disabilities.

Roll call on Assembly Bill No. 483:

YEAS—42.

NAYS—None.

Assembly Bill No. 483 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 2.

Bill read third time.

Remarks by Assemblyman Carrillo.

ASSEMBLYMAN CARRILLO:

Senate Bill 2 provides anonymity to a parent who delivers a child to a provider of emergency services under the Safe Haven Law unless there is reasonable cause to believe that the child has been abused or neglected. The bill also removes the right of such a parent to notice that the child has been placed in protective custody and to proceedings related to the termination of parental rights. The nondelivering parent retains the right to such notice if the parent's location is known and to notice by publication if unknown. This measure is effective on October 1, 2017.

Roll call on Senate Bill No. 2:

YEAS—42.

NAYS—None.

Senate Bill No. 2 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 33.

Bill read third time.

Remarks by Assemblyman Elliot Anderson.

ASSEMBLYMAN ELLIOT ANDERSON:

Senate Bill 33 prohibits the foreclosure of a military servicemember's residential mortgage loan, including the foreclosure of a lien against a unit in a common-interest community, while the member is on active duty and for one year immediately following active duty so long as the loan was entered into before the servicemember was called to active duty or deployed. These protections also apply to a servicemember's dependent in certain circumstances. A person who knowingly violates these provisions is guilty of a misdemeanor and is liable for damages. This bill is effective upon passage and approval.

Roll call on Senate Bill No. 33:

YEAS—42.

NAYS—None.

Senate Bill No. 33 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Senate Bill No. 50.

Bill read third time.

Remarks by Assemblyman Edwards.

ASSEMBLYMAN EDWARDS:

Senate Bill 50 authorizes a person who is of sound mind and at least 18 years of age or an emancipated minor to execute an advance directive for psychiatric care to direct any provider of health care on how he or she wishes psychiatric care to be provided if incapable of making or communicating decisions concerning such care. The bill also authorizes a person to designate another person to make decisions for him or her if incapable of making such decisions.

Roll call on Senate Bill No. 50:

YEAS—42.

NAYS—None.

Senate Bill No. 50 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 51.

Bill read third time.

Remarks by Assemblyman Wheeler.

ASSEMBLYMAN WHEELER:

Senate Bill 51 makes various revisions to the process of adjudication of vested water rights, including removing the requirement that the State Engineer determine the relative rights of claimants in order of the importance of the stream for irrigation. It requires that the State Engineer provide notice of the pendency of the proceedings as soon as practicable after the State Engineer enters an order granting a petition to determine the relative rights of claimants. The

notice must set forth the date the State Engineer will commence taking proofs of appropriation, the date by which all proofs must be filed, and that all proofs must be accompanied by maps depicting required information. It revises information that must be included in proofs of appropriation and provides a process for return and correction of defective proofs of appropriation. It authorizes the State Engineer to make a copy of the preliminary order and the order of determination available on the Internet and to send a notice to each person who has filed a proof of appropriation that the order is available on the State Engineer's website. The bill provides that the State Engineer must hold a hearing on objections to the preliminary order and that notice of the hearing may be sent or served upon persons to be affected by the objections. Finally, it provides that all testimony at the hearings must be transcribed by a court reporter and that claimants objecting to the preliminary order shall pay the fees and expenses of the court reporter.

Roll call on Senate Bill No. 51:

YEAS—26.

NAYS—Paul Anderson, Edwards, Ellison, Hambrick, Hansen, Kramer, Krasner, Marchant, McArthur, Neal, Oscarson, Pickard, Titus, Tolles, Wheeler, Woodbury—16.

Senate Bill No. 51 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 75.

Bill read third time.

Remarks by Assemblywoman Swank.

ASSEMBLYWOMAN SWANK:

Senate Bill 75 makes confidential any information concerning a person who has requested assistance from the Department of Wildlife or has reported any information concerning potentially dangerous wildlife or wildlife causing a nuisance. The measure also provides that certain reports the Department is required to submit to various entities may instead be posted on the Department's website.

Roll call on Senate Bill No. 75:

YEAS—27.

NAYS—Paul Anderson, Edwards, Ellison, Hambrick, Hansen, Kramer, Krasner, Marchant, McArthur, Oscarson, Pickard, Titus, Tolles, Wheeler, Woodbury—15.

Senate Bill No. 75 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 91.

Bill read third time.

Remarks by Assemblyman Sprinkle.

ASSEMBLYMAN SPRINKLE:

Senate Bill 91 creates the Prescription Drug Donation Program by combining the HIV/AIDS Drug Donation Program and the Cancer Drug Donation Program. The new Prescription Drug Donation Program authorizes a person or governmental entity to donate any prescription drug, except marijuana and certain drugs for which a patient must register with the manufacturer, at a pharmacy, medical facility, health clinic, or other provider of health care that participates in the Program. Such participants may impose a handling fee upon patients who receive a donated prescription drug and must comply with specific requirements regarding the acceptance, distribution, and dispensing of these drugs.

Roll call on Senate Bill No. 91:

YEAS—42.

NAYS—None.

Senate Bill No. 91 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 107.

Bill read third time.

Remarks by Assemblyman Elliot Anderson.

ASSEMBLYMAN ELLIOT ANDERSON:

Senate Bill 107 requires the Council to Establish Academic Standards for Public Schools to establish content and performance standards for ethnic and diversity studies in public high schools. It also authorizes high schools to offer instruction in ethnic and diversity studies. This bill is effective upon passage and approval for purposes of adopting regulations and performing preparatory administrative tasks and on July 1, 2018, for all other purposes.

Roll call on Senate Bill No. 107:

YEAS—32.

NAYS—Edwards, Ellison, Hambrick, Hansen, Kramer, Marchant, McArthur, Oscarson, Titus, Wheeler—10.

Senate Bill No. 107 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 117.

Bill read third time.

Remarks by Assemblyman Oscarson.

ASSEMBLYMAN OSCARSON:

Senate Bill 117 requires each polling place to have a separate line for voters with disabilities or who are not physically able to wait in line to vote. Voters in this line must be permitted to vote before any voter who is not disabled and is physically able to wait in line. The bill sets forth an alternative to these provisions by requiring an election board officer at each polling place to allow voters with disabilities or who are not physically able to wait in line to move to the front of the line in order to vote. The bill is effective on October 1, 2017.

Roll call on Senate Bill No. 117:

YEAS—42.

NAYS—None.

Senate Bill No. 117 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 133.

Bill read third time.

Remarks by Assemblyman Wheeler.

ASSEMBLYMAN WHEELER:

Senate Bill 133 revises the Uniform Deployed Parents Custody and Visitation Act to apply to civilian employees of the Department of Defense regarding when a court in this state has jurisdiction to issue orders in custodial matters.

Roll call on Senate Bill No. 133:

YEAS—42.

NAYS—None.

Senate Bill No. 133 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 140.

Bill read third time.

Remarks by Assemblyman Hansen.

ASSEMBLYMAN HANSEN:

Senate Bill 140 authorizes the Director of the Department of Corrections to assign certain offenders to the custody of the Division of Parole and Probation to serve a term of residential confinement or other appropriate supervision for the remainder of the offender's sentence. To qualify for such an assignment, an offender must be at least 65 years of age and must have served at least a majority of the maximum term or maximum aggregate term of his or her sentence.

An offender is not eligible for this assignment if the offender has been sentenced to death, to life without the possibility of parole, or has been convicted of any of the following offenses: a sexual offense, certain crimes against children, a violent offense, vehicular homicide, or driving under the influence of drugs or alcohol causing death or substantial bodily harm to another person.

Roll call on Senate Bill No. 140:

YEAS—32.

NAYS—Paul Anderson, Edwards, Ellison, Krasner, Marchant, McArthur, Oscarson, Pickard, Titus, Wheeler—10.

Senate Bill No. 140 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 141.

Bill read third time.

Remarks by Assemblyman Watkins.

ASSEMBLYMAN WATKINS:

Senate Bill 141 expands the conditions under which a veteran of the United States Armed Forces who has suffered a service-connected disability may qualify for certain specially designed license plates and makes various conforming changes.

Roll call on Senate Bill No. 141:

YEAS—42.

NAYS—None.

Senate Bill No. 141 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 173.

Bill read third time.

The following amendment was proposed by Assemblyman Pickard:

Amendment No. 758.

AN ACT relating to education; revising provisions concerning the applicability of the prevailing wage requirements and certain building standards and requirements to construction projects relating to achievement charter schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Achievement School District within the Department of Education and authorizes the conversion of certain public schools which demonstrate unsatisfactory pupil achievement and school performance into achievement charter schools. (NRS 388B.100, 388B.200) With certain exceptions, existing law requires that mechanics and workers employed on public works be paid at least the wage prevailing for the type of work that the mechanic or worker performs in the locale in which the public work is located, as determined by the Labor Commissioner. (NRS 338.020) The Labor Commissioner is required to set the prevailing wage on public works of school districts and the Nevada System of Higher Education at 90 percent of the rate of prevailing wage that other public bodies are required to pay. (NRS 338.030) Existing law exempts charter schools, including achievement charter schools, from compliance with prevailing wage requirements. (NRS 338.080, 388A.635, 388B.250)

This bill eliminates the exemption of achievement charter schools from the prevailing wage requirements and specifically makes those requirements applicable to a contract or other agreement for the construction of, improvement of, repair to, demolition of or reconstruction of an improvement to any building, structure or property that is used or will be used by an achievement charter school ~~if~~ **if the construction, improvement, repair, demolition or reconstruction is paid in whole or in part from money in the capital improvement fund of a school district.** Any such contract or agreement is required to include the contractual provisions and stipulations that are required to be included in a contract for a public work relating to prevailing wage requirements. Any person or governmental entity that enters into such a contract or agreement and the contractor who is awarded the contract or enters into the agreement to perform the construction, improvement, repair, demolition or reconstruction, and any subcontractor who performs any portion of the contract or agreement is required to comply with the prevailing wage requirements in the same manner as if a public body had undertaken the construction, improvement, repair, demolition or reconstruction or had awarded the contract.

Under existing law, school districts are required to comply with various requirements with respect to the design, construction and alteration of school buildings and facilities. (NRS 278.585, 393.110) This bill requires that any construction of, improvement of, repair to, demolition of or reconstruction of an improvement to any building, structure or property that is used by or will be used by an achievement charter school must comply with the same

engineering, design, safety and other building standards and requirements with which school buildings and facilities in the same county must comply.

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

Section 1. Chapter 388B of NRS is hereby amended by adding thereto a new section to read as follows:

1. The provisions of NRS 338.013 to 338.090, inclusive, apply to a contract or other agreement for the construction of, improvement of, repair to, demolition of or reconstruction of an improvement to any building, structure or property that is used or will be used by an achievement charter school ~~+~~ if the construction, improvement, repair, demolition or reconstruction is paid in whole or in part from money in the capital improvement fund of a school district.

2. If the Achievement School District, a governing body of an achievement charter school, a charter management organization, educational management organization or other person who operates an achievement charter school or any other person or governmental entity enters into any contract or other agreement for the construction of, improvement of, repair to, demolition of or reconstruction of an improvement to any building, structure or property that is used or will be used by an achievement charter school ~~+~~ and the construction, improvement, repair, demolition or reconstruction is paid in whole or in part from money in the capital improvement fund of a school district:

(a) The Achievement School District, governing body of the achievement charter school, charter management organization, educational management organization or other person who operates the achievement charter school or other person or governmental entity shall include in the contract or other agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive.

(b) The Achievement School District, governing body of the achievement charter school, charter management organization, educational management organization or other person who operates the achievement charter school or other person or governmental entity and the contractor who is awarded the contract or enters into the agreement to perform the construction, improvement, repair, demolition or reconstruction, and any subcontractor who performs any portion of the contract or agreement, shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if a public body had undertaken the construction, improvement, repair, demolition or reconstruction or had awarded the contract.

3. Any construction of, improvement of, repair to, demolition of or reconstruction of an improvement to any building, structure or property that is used by or will be used by an achievement charter school must

comply with the same engineering, design, safety and other building standards and requirements with which school buildings and facilities in the same county must comply.

Sec. 2. NRS 388B.250 is hereby amended to read as follows:

388B.250 1. Except as otherwise provided in this section, the provisions of chapter 388A of NRS are not applicable to an achievement charter school.

2. The provisions of NRS 388A.090, 388A.095, 388A.100, 388A.171, 388A.226, 388A.345, 388A.348, 388A.351, 388A.363, 388A.366, 388A.369, 388A.384, 388A.408 to 388A.420, inclusive, 388A.478 to 388A.527, inclusive, 388A.547, ~~and~~ 388A.550 to **388A.630, inclusive, and 388A.640 to 388A.695,**

inclusive, apply to an achievement charter school. *Except as otherwise provided in section 1 of this act, the provisions of NRS 388A.635 apply to an achievement charter school.*

3. The governing body of an achievement charter school may submit a written request to the Superintendent of Public Instruction for a waiver from the requirements of paragraphs (f) to (k), inclusive, of subsection 1 of NRS 388A.366 or subsection 2 of that section or, except with regard to a program supported with Title I money, NRS 388A.518, 388A.521 or 388A.524. The Executive Director may grant such a request if the governing body demonstrates to the satisfaction of the Superintendent of Public Instruction that circumstances justify the waiver and that granting the waiver is in the best interest of the pupils enrolled in the achievement charter school.

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

338.080 *I.* 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 \$250,000. 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 \$250,000.

~~{4-}~~ (d) Any contract for a public work or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property to which a charter school is a party, notwithstanding any other provision of law.

~~{5-}~~ (e) A public work of, or constructed by, a charter school, or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property of or constructed by a charter school, notwithstanding any other provision of law.

(f) Except as otherwise provided in section 1 of this act, the construction of, improvement of, repair to, demolition of or reconstruction of an improvement to any building, structure or property that is used or will be used by an achievement charter school.

2. As used in this section, "charter school" does not include an achievement charter school as defined in NRS 385.007.

Sec. 4. The amendatory provisions of this act do not apply to a contract or other agreement entered into before July 1, 2017.

Sec. 5. This act becomes effective on July 1, 2017.

Assemblyman Pickard moved the adoption of the amendment.

Remarks by Assemblyman Pickard.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 176.

Bill read third time.

Remarks by Assemblymen Bilbray-Axelrod, Tolles, and Flores.

ASSEMBLYWOMAN BILBRAY-AXELROD:

Senate Bill 176 expands to all law enforcement agencies the requirement that certain peace officers wear a portable event recording device while on duty and requires that video recordings be retained by the law enforcement agency for not less than 15 days.

The bill also expands to all counties the authority of the respective boards of county commissioners to impose a surcharge to be used for the enhancement of the telephone system for reporting an emergency in the county and authorizes the surcharge to also be used to purchase and maintain portable event recording devices and vehicular event recording devices. The maximum amount of the surcharge that may be imposed is increased from 25 cents to \$1 each month for each access line to the local exchange of a telecommunications provider.

This measure is effective upon passage and approval for the purpose of adopting regulations and performing any necessary preliminary administrative tasks and on July 1, 2018, for all other purposes.

ASSEMBLYWOMAN TOLLES:

I received a lot of emails in regards to 9-1-1 funds being possibly diverted. I wondered if the sponsor could help me answer that question about the 9-1-1 funds, because I am certainly supportive of the concept.

ASSEMBLYMAN FLORES:

That is correct; that is my understanding. This is permissive language that will allow the counties to impose whatever fee they think is necessary. It will be used through what we pay now in our cell phones for 9-1-1. What that amount may be is yet to be known. It is permissive, so we do not know until the counties take it upon themselves to do it.

Roll call on Senate Bill No. 176:

YEAS—33.

NAYS—Edwards, Hambrick, Hansen, Kramer, McArthur, Oscarson, Tolles, Wheeler, Woodbury—9.

Senate Bill No. 176 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 182.

Bill read third time.

Remarks by Assemblywoman Joiner.

ASSEMBLYWOMAN JOINER:

Senate Bill 182 authorizes a sheriff to charge and collect the same \$21 fee that a constable is entitled to collect for each service in a summary eviction, except service of any notice required by law before commencement of the proceeding, and for serving notice of and executing a writ of restitution. The bill further authorizes a constable to collect the same \$2 fee that a sheriff is entitled to collect for mailing a notice of a writ of execution.

Finally, the bill prohibits a deputy constable from being a bail agent, bail enforcement agent, or bail solicitor.

Roll call on Senate Bill No. 182:

YEAS—42.

NAYS—None.

Senate Bill No. 182 having received a two-thirds majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 188.

Bill read third time.

Remarks by Assemblyman Carrillo.

ASSEMBLYMAN CARRILLO:

Senate Bill 188 defines the terms “gender identity or expression” and “sexual orientation” and makes these definitions applicable to the *Nevada Revised Statutes* as a whole. Further, the bill revises provisions of existing law that prohibit various types of discrimination and discriminatory practices to include gender identity or expression and sexual orientation.

Among other provisions, the bill revises the circumstances under which murder of the first degree may be aggravated by adding the circumstance if the murder was committed upon the person because of his or her actual or perceived gender identity or expression. It prohibits a polygraph examiner or intern from inquiring about the sexual orientation or gender identity or expression of the person examined unless such information is germane to the issue under investigation and the inquiries are made at the request of the examinee and prohibits an insurer that uses a consumer credit report from calculating an insurance score based on a person’s sexual orientation or gender identity or expression.

This bill is effective on July 1, 2017.

Roll call on Senate Bill No. 188:

YEAS—37.

NAYS—Edwards, Ellison, Hansen, Marchant, McArthur—5.

Senate Bill No. 188 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 195.

Bill read third time.

Remarks by Assemblyman Wheeler.

ASSEMBLYMAN WHEELER:

Senate Bill 195 revises the methods by which executive board vacancies are filled, elections conducted, and by which a special declarant’s rights are transferred in an involuntary sale. It also requires an association to maintain directors and officers insurance and grants boards

additional powers to manage the parking and storage of recreational vehicles. Depending on the purpose for which an executive session is being held, notice for an executive board session must either be given only to the person who may be the subject of a hearing for that meeting or be posted within the common elements of the association and be provided electronically to all unit owners who have provided an electronic mail address.

The bill requires additional disclosures be made regarding both the purchase and resale of a time share and requires a time-share manager to disclose to the association and make available upon request a report describing all fees, compensation, or other property the manager is entitled to receive for services rendered.

Roll call on Senate Bill No. 195:

YEAS—42.

NAYS—None.

Senate Bill No. 195 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 237.

Bill read third time.

Remarks by Assemblyman Sprinkle.

ASSEMBLYMAN SPRINKLE:

Senate Bill 237 requires a court to consider whether a child welfare agency has created an in-home safety plan for the protection of a child as part of its efforts to preserve and reunify a child with his or her family.

Roll call on Senate Bill No. 237:

YEAS—42.

NAYS—None.

Senate Bill No. 237 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 240.

Bill read third time.

Remarks by Assemblyman Pickard.

ASSEMBLYMAN PICKARD:

Senate Bill 240 allows the Nevada Gaming Commission and the Nevada Gaming Control Board to establish by regulation which types of events other than sporting events, horse races, or dog races may be suitable for pari-mutuel wagering.

This bill is effective on July 1, 2017.

Roll call on Senate Bill No. 240:

YEAS—42.

NAYS—None.

Senate Bill No. 240 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 247.

Bill read third time.

Remarks by Assemblywoman Swank.

ASSEMBLYWOMAN SWANK:

Senate Bill 247 makes several revisions to education reporting requirements, including changing the due date for each school district's report of accountability from September 30 to December 31, requiring a school to post its progressive discipline plan on its website and distribute it to staff, and removing the requirement that the Superintendent of Public Instruction submit a separate report on district compliance in adopting school discipline plans.

Senate Bill 247 also reduces from 15 to 13 days the public notice required for policy changes being proposed by the school boards in Clark and Washoe Counties.

Roll call on Senate Bill No. 247:

YEAS—42.

NAYS—None.

Senate Bill No. 247 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 252.

Bill read third time.

Remarks by Assemblyman Ellison.

ASSEMBLYMAN ELLISON:

Senate Bill 252 authorizes the Nevada Interscholastic Activities Association to, by regulation, allow a student who is enrolled in a charter, private, parochial, or public school to participate in a sanctioned sport or other interscholastic event at another public school. To be eligible to participate in an event at another school, a student's school must enroll not more than 30 students collectively in grades 9 through 12, the student must reside in the school district or zone of attendance of the public school offering the event, the event must not be offered at the student's school, and the board of trustees of the school district must provide approval.

This bill is effective upon passage and approval for the purpose of adopting regulations and performing any other administrative tasks and on July 1, 2017, for all other purposes.

Roll call on Senate Bill No. 252:

YEAS—42.

NAYS—None.

Senate Bill No. 252 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Benitez-Thompson moved that Senate Bills Nos. 116, 230, 255, 268, 273, 279, 295, 305, 318, 338, 366, 369, 374, 376, 386, 411, 422, 447, 454, 464, 466, 473, 476, 483, 493, 513, and 515; Senate Joint Resolutions Nos. 5, 8, and 13 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 8, 12, 20, 22, 31, 79, 95, 96, 98, 108, 134, 151, 170, 236, 247, 258, 279, 305, 324, 337, 340, 347, 452, and 478; Assembly Resolution No. 7;

Senate Bills Nos. 13, 15, 19, 20, 27, 29, 32, 35, 40, 42, 110, 112, 131, 175, 177, 202, 241, 277, 301, 313, 326, 362, and 412.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 57.

The following Senate amendment was read:

Amendment No. 677.

AN ACT relating to coroners; requiring coroners to make a reasonable effort to notify the next of kin who is authorized to order the burial or cremation of a decedent of the decedent's death; authorizing a coroner to notify certain other persons of the death of the decedent; authorizing a coroner to provide a coroner's report to such persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a coroner to notify the next of kin of a decedent of the decedent's death. (NRS 259.045) Existing law also establishes the order of priority of persons authorized to order the burial or cremation of the human remains of a deceased person. (NRS 451.024) **Section 3** of this bill requires a coroner to make a reasonable effort to notify the next of kin who is authorized to order the burial or cremation of the human remains of a decedent of the death of the decedent. **Section 3** also authorizes a coroner to notify the parents, guardians, adult children or custodians of the decedent of the decedent's death and provide a copy of the report of the coroner to the parents, guardians, adult children or custodians, as applicable. **Sections 1 and 2** of this bill make conforming changes. **This bill is known as "Veronica's Law" after Veronica Caldwell.**

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

Section 1. NRS 244.163 is hereby amended to read as follows:

244.163 1. The boards of county commissioners in their respective counties may create by ordinance the office of the county coroner, prescribe the qualifications and duties of the county coroner and make appointments to the office.

2. Any coroner so appointed is governed by the ordinances pertaining to such office which may be enacted by the board of county commissioners, and the provisions of NRS 259.025 , **259.045** and 259.150 to 259.180, inclusive.

3. The boards of county commissioners shall require that the county coroner *make a reasonable effort to* notify a decedent's next of kin *who is authorized to order the burial or cremation of the human remains of the decedent pursuant to NRS 451.024 of the fact of the decedent's death* without unreasonable delay.

4. For any offense relating to the violation or willful disregard of such duties or trusts of office as may be specified by the respective boards of county commissioners, all coroners holding office by appointment pursuant

to this section are subject to such fines and criminal penalties, including misdemeanor penalties and removal from office by indictment, accusation or otherwise, as the ordinance prescribes. This subsection applies to all deputies, agents, employees and other persons employed by or exercising the powers and functions of the coroner.

Sec. 2. NRS 259.010 is hereby amended to read as follows:

259.010 1. Every county in this State constitutes a coroner's district, except a county where a coroner is appointed pursuant to the provisions of NRS 244.163.

2. The provisions of this chapter, except NRS 259.025 , **259.045** and 259.150 to 259.180, inclusive, do not apply to any county where a coroner is appointed pursuant to the provisions of NRS 244.163.

Sec. 3. NRS 259.045 is hereby amended to read as follows:

259.045 1. The coroner shall *make a reasonable effort to* notify a decedent's next of kin *who is authorized to order the burial or cremation of the human remains of the decedent pursuant to NRS 451.024* of the fact of *the* decedent's death without unreasonable delay.

2. *The coroner may notify the parents, guardians, adult children or custodians of a decedent of the fact of the decedent's death and provide a copy of the report of the coroner to the parents, guardians, adult children or custodians regardless of whether they are the next of kin authorized to order the burial or cremation of the human remains of the decedent pursuant to NRS 451.024.*

3. *As used in this section, "custodian" has the meaning ascribed to it in NRS 432B.060.*

Sec. 4. This act becomes effective on July 1, 2017.

Assemblyman Flores moved that the Assembly concur in Senate Amendment No. 677 to Assembly Bill No. 57.

Remarks by Assemblyman Flores.

ASSEMBLYMAN FLORES:

The amendment allows AB 57 to be known as Veronica's Law in honor of Veronica Caldwell and Veronica's daughter who both died on March 3, 2015 as a result of a domestic violence incident.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 214.

The following Senate amendment was read:

Amendment No. 671.

AN ACT relating to clinical trials; requiring the Division of Public and Behavioral Health of the Department of Health and Human Services to establish a program to encourage participation in clinical trials of drugs and medical devices by certain groups; requiring certain state and local governmental entities to adopt a policy concerning the identification and

recruitment of members of those groups to participate in such trials; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Division of Public and Behavioral Health of the Department of Health and Human Services to establish various programs relating to the provision of health care and the improvement of public health in this State. (NRS 439.495, 439.501, 439.517, 439.5295) This bill requires the Division to establish a program to encourage participation in clinical trials of drugs and medical devices by persons who are members of demographic groups that are underrepresented in such trials. This bill also requires each state or local governmental entity that conducts such trials to adopt a policy concerning the identification and recruitment of such persons to participate in those trials.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *It is the policy of this State to:*

(a) *Improve the completeness and quality of data concerning diverse demographic groups that is collected, reported and analyzed for the purposes of clinical trials of drugs and medical devices;*

(b) *Identify barriers to participation in clinical trials by persons who are members of demographic groups that are underrepresented in such trials and employ strategies recognized by the United States Food and Drug Administration to encourage greater participation in clinical trials by such persons; and*

(c) *Make data concerning demographic groups that is collected, reported and analyzed for the purposes of clinical trials more available and transparent.*

2. *To assist in carrying out this policy:*

(a) *The Division shall review the most recent version of "Collection of Race and Ethnicity Data in Clinical Trials—Guidance for Industry and Food and Drug Administration Staff," published by the United States Food and Drug Administration, and establish, using existing infrastructure and tools, a program to encourage participation in clinical trials of drugs and medical devices by persons who are members of demographic groups that are underrepresented in such clinical trials. The program must include, without limitation:*

(1) *Collaboration with medical facilities, health authorities and other local governmental entities, nonprofit organizations and scientific investigators and institutions that are performing research relating to drugs or medical devices to assist such investigators and institutions in identifying and recruiting persons who are members of underrepresented demographic groups to participate in clinical trials; and*

(2) *The establishment and maintenance of an Internet website that:*

(I) *Provides information concerning methods recognized by the United States Food and Drug Administration for identifying and recruiting persons who are members of underrepresented demographic groups to participate in clinical trials; and*

(II) *Contains links to Internet websites maintained by medical facilities, health authorities and other local governmental entities, nonprofit organizations and scientific investigators and institutions that are performing research relating to drugs or medical devices in this State.*

(b) *With the assistance of the Office of Grant Procurement, Coordination and Management of the Department of Administration, the Division shall apply for grants from any source, including, without limitation, the Federal Government, to fund the program established pursuant to paragraph (a).*

(c) *Not later than May 1 of each even-numbered year, the Division shall submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the status and results of the program established pursuant to paragraph (a).*

(d) *Each state or local governmental entity that conducts clinical trials of drugs or medical devices, including, without limitation, the Board of Regents of the University of Nevada, shall adopt a policy concerning the identification and recruitment of persons who are members of underrepresented demographic groups to participate in those clinical trials. Such a policy must include, without limitation, requirements that investigators who are conducting clinical trials collaborate with community-based organizations and use methods recognized by the United States Food and Drug Administration to identify and recruit such persons to participate in those clinical trials.*

3. *For the purposes of this section, demographic groups that are underrepresented in clinical trials may include, without limitation, persons who are underrepresented by race, sex, sexual orientation, socioeconomic status and age.*

4. *The Division may accept gifts, grants and donations from any source for the purpose of carrying out the provisions of this section.*

5. *As used in this section, “medical facility” has the meaning ascribed to it in NRS 449.0151.*

Sec. 1.5. 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. 2. This act becomes effective on July 1, 2017.

Assemblyman Sprinkle moved that the Assembly concur in Senate Amendment No. 671 to Assembly Bill No. 214.

Remarks by Assemblyman Sprinkle.

ASSEMBLYMAN SPRINKLE:

Amendment No. 671 revises Assembly Bill 214 to authorize the Division of Public and Behavioral Health of the Department of Health and Human Services to accept gifts, grants, and donations from any source for the purpose of carrying out the provisions of the bill.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 255.

The following Senate amendment was read:

Amendment No. 737.

ASSEMBLYMAN HAMBRICK

JOINT SPONSOR: SENATOR CANNIZZARO

AN ACT relating to financial services; providing that provisions governing the licensing and regulation of certain short-term loans and installment loans do not apply to the extension of credit to any person who is not a resident of this State for any business, commercial or agricultural purpose that is located outside of this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes standards and procedures for the licensing and regulations of certain short-term loans, commonly referred to as "payday loans," high-interest loans and title loans. (Chapter 604A of NRS)

Existing law sets forth the standards and procedures for the licensing and regulations of loans repayable in installments, which include loans that may or may not be made on substantial security and loans for indefinite terms. (Chapter 675 of NRS) This bill provides that these provisions do not apply to a person who exclusively extends credit to any person who is not a resident of this State for any business, commercial or agricultural purpose that is located outside of this State.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 3.3. NRS 604A.250 is hereby amended to read as follows:

604A.250 The provisions of this chapter do not apply to:

1. Except as otherwise provided in NRS 604A.200, a person doing business pursuant to the authority of any law of this State or of the United States relating to banks, national banking associations, savings banks, trust companies, savings and loan associations, credit unions, mortgage brokers, mortgage bankers, thrift companies or insurance companies, including, without limitation, any affiliate or subsidiary of such a person regardless of whether the affiliate or subsidiary is a bank.

2. A person who is primarily engaged in the retail sale of goods or services who:

(a) As an incident to or independently of a retail sale or service, from time to time cashes checks for a fee or other consideration of not more than \$2; and

(b) Does not hold himself or herself out as a check-cashing service.

3. A person while performing any act authorized by a license issued pursuant to chapter 671 of NRS.

4. A person who holds a nonrestricted gaming license issued pursuant to chapter 463 of NRS while performing any act in the course of that licensed operation.

5. A person who is exclusively engaged in a check-cashing service relating to out-of-state checks.

6. A corporation organized pursuant to the laws of this State that has been continuously and exclusively engaged in a check-cashing service in this State since July 1, 1973.

7. A pawnbroker, unless the pawnbroker operates a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service.

8. A real estate investment trust, as defined in 26 U.S.C. § 856.

9. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

10. An attorney at law rendering services in the performance of his or her duties as an attorney at law if the loan is secured by real property.

11. A real estate broker rendering services in the performance of his or her duties as a real estate broker if the loan is secured by real property.

12. Any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

13. A person who provides money for investment in loans secured by a lien on real property, on his or her own account.

14. A seller of real property who offers credit secured by a mortgage of the property sold.

15. A person who makes a refund anticipation loan, unless the person operates a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service.

16. A person who exclusively extends credit to any person who is not a resident of this State for any business, commercial or agricultural purpose that is located outside of this State.

Sec. 3.7. NRS 675.040 is hereby amended to read as follows:

675.040 This chapter does not apply to:

1. Except as otherwise provided in NRS 675.035, a person doing business under the authority of any law of this State or of the United States relating to banks, national banking associations, savings banks, trust companies, savings and loan associations, credit unions, mortgage brokers, mortgage bankers, thrift companies, pawnbrokers or insurance companies.

2. A real estate investment trust, as defined in 26 U.S.C. § 856.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his or her duties as an attorney at law if the loan is secured by real property.

5. A real estate broker rendering services in the performance of his or her duties as a real estate broker if the loan is secured by real property.

6. Except as otherwise provided in this subsection, any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

7. A person who provides money for investment in loans secured by a lien on real property, on his or her own account.

8. A seller of real property who offers credit secured by a mortgage of the property sold.

9. A person holding a nonrestricted state gaming license issued pursuant to the provisions of chapter 463 of NRS.

10. A person licensed to do business pursuant to chapter 604A of NRS with regard to those services regulated pursuant to chapter 604A of NRS.

11. *A person who exclusively extends credit to any person who is not a resident of this State for any business, commercial or agricultural purpose that is located outside of this State.*

Sec. 4. This act becomes effective upon passage and approval.

Assemblywoman Bustamante Adams moved that the Assembly concur in Senate Amendment No. 737 to Assembly Bill No. 255.

Remarks by Assemblywoman Bustamante Adams.

ASSEMBLYWOMAN BUSTAMANTE ADAMS:

The amendment adds a cosponsor to the bill, Senator Cannizzaro.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

REMARKS FROM THE FLOOR

Assemblyman Thompson requested that the following remarks be entered in the Journal.

ASSEMBLYMAN THOMPSON:

I am so pleased to announce that Nevadans will be coming together this month to begin a study focusing on senior nutrition services. They seek to address the fundamental question: How do we prevent seniors from falling through the cracks as they seek services for their health and nutritional needs today and in the future?

Joining me today and being very patient, by the way, are three people who have been instrumental to the development of this study: Jodi Tyson, Three Square Food Bank of Nevada; Shane Piccinini, Food Bank of Northern Nevada; and Laura Urban, Department of Health and Human Services' Office of Food Security. Laura also serves as staff for the Governor's Council on Food Security. Our First Lady, Kathleen Sandoval, chairs the Governor's Council on Food Security, and while she could not be here with us today, we express our gratitude to her for including this study as one of the top projects under her leadership.

Why is a study needed to streamline nutrition services for seniors? Nutrition is a vital health service, and the connections between nutrition and health services have not been a focus. As we plan for a growing senior population in Nevada, now is the time to address this issue.

In 2016, according to the America's Health Rankings Report, approximately 14 percent of senior adults in Nevada aged 60 years and older struggled because they lacked the financial and social resources needed to secure an adequate supply of food to remain healthy and independent, otherwise known as food insecurity. Seniors at risk of hunger are 60 percent more likely to experience depression, 53 percent more likely to report a heart attack, and 40 percent more likely to report an experience of congestive heart failure.

In Nevada, food pantries are supplementing the nutrition needs of more than 46,000 seniors each year. More than 17,000 congregate meals are served to seniors each year, mostly through senior centers, to increase nutrition access as well as daily social interaction. Home-delivered meals attend to the needs of more than 6,600 homebound seniors and the disabled with two nutritious meals a day.

Projections suggest senior food insecurity will continue to be a crisis for the United States. Estimates from the Nevada State Demographer's Office illustrate much of Nevada's population growth over the next ten years will be among the 60-years-and-older age groups. Nevada's shifting demographics and population projections indicate that Nevada needs a focused plan to address senior food insecurity, health, and independent living among this population. Nevada senior nutrition programs need a plan to ensure sustainable programming, infrastructure, and resources to meet the impending need for services.

Please look out for this report, which will be delivered in November of 2017, and hopefully we can make some strong policy recommendations for the next legislative session.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Diaz, the privilege of the floor of the Assembly Chamber for this day was extended to Luke Juden.

On request of Assemblyman Flores, the privilege of the floor of the Assembly Chamber for this day was extended to Diana Gurrola.

On request of Assemblyman Hansen, the privilege of the floor of the Assembly Chamber for this day was extended to Cindy Southerland.

On request of Assemblywoman Krasner, the privilege of the floor of the Assembly Chamber for this day was extended to the following students, teachers, and chaperones from Tahoe Expedition Academy: Aidan Osti,

Ty Chapman, Ozzie Kroop, Gavin Caron, Carter McCay-Moran, Nina Bolen, Dakota Cooke, Kate Geis, Lily Kaplan, Tailor Knight, Summer LaFleur, Kaya Marshall, Madison Racich, and Kalea Root.

On request of Assemblyman Thompson, the privilege of the floor of the Assembly Chamber for this day was extended to Jodi Tyson, Shane Piccinini, and Laura Urban.

Assemblywoman Benitez-Thompson moved that the Assembly adjourn until Friday, May 19, 2017, at 11:30 a.m.

Motion carried.

Assembly adjourned at 2:08 p.m.

Approved:

JASON FRIERSON
Speaker of the Assembly

Attest: SUSAN FURLONG
Chief Clerk of the Assembly