

**THE ONE HUNDRED AND SIXTEENTH DAY**

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CARSON CITY (Thursday), May 30, 2019

Assembly called to order at 1:34 p.m.

Mr. Speaker presiding.

Roll called.

All present except Assemblyman Hambrick, who was excused, and one vacant.

Prayer by the Chaplain, Captain Leslie Cyr.

Heavenly Father, we thank You for Your many blessings and for Your care. We recognize You as the giver of all things that are good and right. We ask, Lord, for Your wisdom and Your guidance in the pursuits of the day.

We wish to recognize the Assembly's supporting staff: we realize how hard you work behind the scenes and we ask for you an extra measure of blessing in these final hours. We pray for strength when you grow weary, patience when you feel frustrated, and perseverance when the day is long. We recognize your worth and contribution, and we thank you with all sincerity for your service.

I thank You, Lord, for the Assembly present here today, and I ask for Your blessings in their personal lives as well as for the task at hand today. In the Name of Jesus, I pray.

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 Education, to which were referred Senate Bills Nos. 314, 321, 376, 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 Government Affairs, to which was referred Senate Bill No. 295, 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 Growth and Infrastructure, to which were referred Senate Bills Nos. 254, 536, 539, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DANIELE MONROE-MORENO, *Chair*

*Mr. Speaker:*

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 276, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 50, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SANDRA JAUREGUI, *Chair*

*Mr. Speaker:*

Your Committee on Taxation, to which was referred Senate Bill No. 497, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DINA NEAL, *Chair*

*Mr. Speaker:*

Your Committee on Ways and Means, to which were referred Assembly Bill No. 540; Senate Bill No. 532, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 216, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 300, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 533, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 111, 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 Ways and Means, to which was rereferred Assembly Bill No. 326, 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 Ways and Means, to which was rereferred Assembly Bill No. 445, 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 Ways and Means, to which was referred Assembly Bill No. 516, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

#### MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 29, 2019

*To the Honorable the Assembly:*

I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 69, 89, 98, 313, 427.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 380, 501, 543.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in Assembly Amendment No. 845 to Senate Bill No. 86; Assembly Amendment No. 818 to Senate Bill No. 121; Assembly Amendment No. 821 to Senate Bill No. 342; Assembly Amendment No. 875 to Senate Bill No. 424; Assembly Amendment No. 996 to Senate Bill No. 502.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 816 to Senate Bill No. 7; Assembly Amendment No. 765 to Senate Bill No. 463.

SHERRY RODRIGUEZ  
*Assistant Secretary of the Senate*

## MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Legislative Operations and Elections:

Assembly Resolution No. 7—Designating certain members of the Assembly as regular and alternate members of the Legislative Commission for the 2019-2021 biennium.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That, pursuant to the provisions of NRS 218E.150 and the Joint Standing Rules of the Legislature, the following members of the Assembly are designated regular and alternate members of the Legislative Commission to serve until their successors are designated: Mr. Jason Frierson, Ms. Teresa Benitez-Thompson, Ms. Maggie Carlton, Mr. Skip Daly, Ms. Lisa Krasner and Mr. Jim Wheeler are designated as the regular Assembly members; Mr. Steve Yeager and Ms. Rochelle Nguyen are designated as the first and second alternate members, respectively, for Mr. Jason Frierson; Ms. Sandra Jauregui and Ms. Selena Torres are designated as the first and second alternate members, respectively, for Ms. Teresa Benitez-Thompson; Ms. Daniele Monroe-Moreno and Ms. Shea Backus are designated as the first and second alternate members, respectively, for Ms. Maggie Carlton; Mr. Greg Smith and Mr. William McCurdy are designated as the first and second alternate members, respectively, for Mr. Skip Daly; Ms. Jill Tolles and Mr. Glen Leavitt are designated as the first and second alternate members, respectively, for Ms. Lisa Krasner; and Ms. Alexis Hansen and Mr. Chris Edwards are designated as the first and second alternate members, respectively, for Mr. Jim Wheeler; and be it further

RESOLVED, That this resolution becomes effective upon adoption.

Assemblywoman Jauregui moved the adoption of the resolution.

Remarks by Assemblywoman Jauregui.

ASSEMBLYWOMAN JAUREGUI:

This resolution appoints members of the Assembly and their alternates to the Legislative Commission.

Resolution adopted.

Assemblywoman Benitez-Thompson moved that Assembly Bills Nos. 111, 326, 445, and 516; Senate Bill No. 50 be taken from their position on the General File and placed at the top of General File.

Motion carried.

## WAIVER OF JOINT STANDING RULES

A Waiver requested by: Senator Ratti.

For: BDR No. S-1288:

Provides for emergency public safety supplement ballot question.

To Waive:

Subsection 1 of Joint Standing Rule No. 14 (Committee requests of each house must be requested by 15th day).

Subsection 1 of Joint Standing Rule No. 14.2 (dates for introduction of BDRs requested by individual legislators and committees).

Subsection 1 of Joint Standing Rule No. 14.3 (out of final committee of house of origin by 68th day).

Subsection 2 of Joint Standing Rule No. 14.3 (out of house of origin by 79th day).

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).

Has been granted effective: May 28, 2019.

SENATOR NICOLE J. CANNIZZARO  
*Senate Majority Leader*

ASSEMBLYMAN JASON FRIERSON  
*Speaker of the Assembly*

## INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 541—AN ACT relating to projects of capital improvement; authorizing certain expenditures by the State Public Works Division of the Department of Administration; levying a property tax to support the Consolidated Bond Interest and Redemption Fund; making appropriations; and providing other matters properly relating thereto.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 69.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 89.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 98.

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

Motion carried.

Senate Bill No. 313.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 380.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 427.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 501.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 543.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 111.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1034.

AN ACT relating to children; requiring the Legislative Committee on Child Welfare and Juvenile Justice to conduct a study concerning the funding of the child welfare system in this State; making an appropriation; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the Legislative Committee on Child Welfare and Juvenile Justice to evaluate and review issues relating to child welfare services and juvenile justice in this State. (NRS 218E.715) **Section 1** of this bill requires the Committee to conduct a study concerning issues regarding the funding of the child welfare system in this State ~~++ in order to identify opportunities to~~ **maximize federal funding for the child welfare system.** **Section 2** of this bill requires the Committee to employ a qualified independent consultant to aid the Committee in the commission of the study. **Section 3** of this bill makes an appropriation of ~~1\$250,0001~~ **\$200,000** for the purpose of conducting the study. **Section 5** of this bill requires the Committee to submit a report with the results of the study and any recommendations for legislation to the 81st Session of the Nevada Legislature.

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

**Section 1.** The Legislative Committee on Child Welfare and Juvenile Justice shall conduct a study during the 2019-2020 interim concerning the funding of the child welfare system in this State ~~++ in order to identify opportunities to maximize federal funding for the system.~~ The study must include, without limitation:

1. An analysis of ~~the current block grant model of funding of agencies which provide child welfare services, including a determination of whether such block grant funding is appropriate and sufficient to meet the needs of agencies which provide child welfare services and what other funding models, if any, would be more appropriate funding mechanisms;~~ **sources of federal funding that are currently utilized in this State to support agencies which provide child welfare services and other agencies which provide services related to children and families involved in the child welfare system,**

**including, without limitation, funding for medical care, mental health and substance abuse treatment, education, juvenile justice and child care;**

2. An analysis of potential sources of funding to support agencies which provide child welfare services in this State, ~~+~~, **including opportunities for waivers or innovative strategies utilized by other states to maximize federal resources; and**

3. An analysis of ~~sources of funding, including, without limitation, federal, state, local and private programs, that support the welfare of children in this State, including, without limitation, funding for medical care, mental health and substance abuse treatment, education, juvenile justice and child care ; and~~

~~4. A cost-benefit analysis of replacing the Unified Nevada Information Technology for Youth case management system with a new juvenile justice and child welfare case management system.~~ **other states and jurisdictions that maximize federal resources for child welfare and related services in order to identify new strategies or opportunities for the funding of the child welfare system in this State.**

**Sec. 2.** The Committee shall employ, within the limits of legislative appropriation, a qualified independent consultant to aid the Committee in the commission of the study.

**Sec. 3.** There is hereby appropriated from the State General Fund to the Legislative Fund created by NRS 218A.150 the sum of ~~(\$250,000)~~ **\$200,000** for the purpose of conducting a study of the funding of the child welfare system of this State as provided in sections 1 and 2 of this act.

**Sec. 4.** Any remaining balance of the appropriation made by section 3 of this act must not be committed for expenditure after June 30, 2021, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 17, 2021, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 17, 2021.

**Sec. 5.** In addition to any report required pursuant to NRS 218E.720, the Committee shall submit to the Legislative Commission a report of the results of the study and any recommendations for legislation before the commencement of the 81st Session of the Nevada Legislature.

**Sec. 6.** 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. 7.** This act becomes effective on July 1, 2019.

Assemblywoman Carlton moved the adoption of the amendment.

Remarks by Assemblywoman Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 326.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1028.

SUMMARY—~~Establishes a program to provide loans to certain operators of~~ **Provides for tax credits for certain business entities that invest in certain** fresh food retailers located in underserved communities and similar areas. (BDR 18-318)

AN ACT relating to economic development; ~~requiring the State Treasurer to develop and carry out a program to provide loans to persons who operate or wish to operate~~ **providing for tax credits for certain business entities that invest in certain** fresh food retailers located in underserved communities ~~or low income areas and adjacent qualified census tracts; making an appropriation;~~ **and similar areas;** and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

~~[This bill requires the State Treasurer to develop and carry into effect a program under which a person who operates or wishes to operate a]~~ **The Nevada New Markets Jobs Act allows certain business entities to receive a credit against the premium tax imposed on insurance companies in exchange for making certain investments in certain qualified active low-income community businesses. (Chapter 231A of NRS) Existing law sets forth the requirements for a business to qualify as a qualified active low-income community business. (NRS 231A.110, 231A.170) Section 1.8 of this bill expands the definition of "qualified active low-income community business" to include a qualified fresh food retailer, [which is located in or will be]** **Sections 1.3 and 1.4 of this bill generally define "qualified fresh food retailer" to mean a retail establishment that: (1) is principally devoted to or that derives a substantial amount of its gross revenue from the sale of certain food products; (2) meets certain requirements prescribed by federal law; and (3) is** located in an underserved community ~~[, low income area or adjacent qualified census tract may obtain a loan to finance the establishment or expansion of such a fresh food retailer. Section 2 of this bill creates the Nevada Fresh Food Financing Initiative Account in the State General Fund as a revolving loan account which must be administered by the State Treasurer and used to fund loans to such persons. Section 3 of this bill requires the State Treasurer to establish the program and requires the State Treasurer to develop: (1) the criteria a person must satisfy to be eligible for a loan; and (2) the procedures for applying for a loan. Under section 3, the State Treasurer is authorized to approve a loan if the person satisfies certain criteria established by the State Treasurer. Under section 3, if such a loan is approved:~~

~~(1) the person receiving the loan must enter into a loan agreement with the State Treasurer; (2) the loan must be funded by the Nevada Fresh Food Financing Initiative Account created by section 2; and (3) all payments of principal and interest on the loan must be deposited in the Account. Section 3 authorizes the State Treasurer to enter into a public-private partnership with one or more private partners to carry out the program.] **or a similar area.**~~

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

**Section 1.** ~~[Chapter 226 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.] (Deleted by amendment.)~~

**Sec. 1.2.** **Chapter 231A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3, 1.4 and 1.5 of this act.**

**Sec. 1.3.** **1. “Fresh food retailer” means a retail establishment, whether organized for profit or not for profit, which is principally devoted to the sale of meat, seafood, fresh fruits and vegetables, dairy products, dry groceries and household products or which derives a substantial amount of its gross revenue from the sale of such products.**

**2. The term includes:**

**(a) A farmers’ market, as defined in NRS 244.336.**

**(b) A grocery store, as defined in NRS 597.225.**

**Sec. 1.4.** **“Qualified fresh food retailer” means a business that is:**

**1. A fresh food retailer;**

**2. A business described in section 45D(d)(2) of the Internal Revenue Code of 1986, 26 U.S.C. § 45D(d)(2), and 26 C.F.R. § 1.45D-1(d)(4); and**

**3. Located in:**

**(a) An underserved community;**

**(b) A severely distressed census tract, as defined in NRS 231A.240; or**

**(c) A census tract that is contiguous to a census tract described in paragraph (a) or (b).**

**Sec. 1.5.** **“Underserved community” means a census tract determined to be an area with low supermarket access by either the United States Department of Agriculture as identified in the Food Access Research Atlas or through a methodology that has been adopted for use by another governmental or philanthropic healthy food initiative.**

**Sec. 1.6.** **NRS 231A.030 is hereby amended to read as follows:**

231A.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 231A.040 to 231A.140, inclusive, **and sections 1.3, 1.4 and 1.5 of this act** have the meanings ascribed to them in those sections.

**Sec. 1.8.** **NRS 231A.110 is hereby amended to read as follows:**

231A.110 **1.** “Qualified active low-income community business” has the meaning ascribed to it in section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D, and 26 C.F.R. § 1.45D-1 ~~., but~~

~~2. The term is limited to qualified fresh food retailers and those businesses specified in NRS 231A.170.~~

~~Sec. 2. H. The Nevada Fresh Food Financing Initiative Account is hereby created in the State General Fund as a revolving loan account. The Account must be administered by the State Treasurer.~~

~~2. All interest and income earned on the money in the Account must be credited to the Account.~~

~~3. The money in the Account does not revert to the State General Fund at the end of any fiscal year and must be carried forward to the next fiscal year.~~

~~4. Money in the Account must be used by the State Treasurer to develop and carry into effect the program developed by the State Treasurer pursuant to section 3 of this act.~~

~~5. For each fiscal year, the State Treasurer shall use not more than 5 percent of the balance of the Account on the first day of the fiscal year or \$300,000, whichever is greater, on administrative expenses relating to the program developed pursuant to section 3 of this act, including, without limitation, marketing expenses, technical assistance and conducting community outreach.~~

~~6. Claims against the Account must be paid as other claims against the State are paid.~~

~~7. The State Treasurer may apply for and accept gifts, grants, bequests and donations from any source for deposit into the Account. (Deleted by amendment.)~~

~~Sec. 3. H. The State Treasurer shall develop and carry into effect a program under which a person who operates or wishes to operate a fresh food retailer which is located in or will be located in an underserved community, low-income area or adjacent qualified census tract in this State may obtain a loan of money distributed from the Account to finance the establishment or expansion of such a fresh food retailer.~~

~~2. The State Treasurer shall establish the criteria which must be used by the program to determine whether to make a loan to a person described in subsection 1 and the criteria which such a person must meet to qualify for a loan under the program. In establishing such criteria, the State Treasurer shall consider, without limitation, whether the making of the loan will assist the State to:~~

~~(a) Promote the public health of residents of this State by providing access to healthy food options;~~

~~(b) Expand employment opportunities or relieve unemployment or underemployment in underserved communities, low-income areas and adjacent qualified census tracts;~~

~~(c) Encourage economic growth and maintain a stable economy; and~~

~~(d) Expand access to healthy and nutritious food to underserved communities, low-income areas or adjacent qualified census tracts.~~

~~3. The State Treasurer shall establish procedures for applying for a loan from the program. The procedures must require an applicant to submit an application for a loan that includes, without limitation:~~

~~(a) A statement of the proposed use of the loan; and~~

~~(b) Such other information as the State Treasurer deems necessary to determine whether the making of the loan to the applicant satisfies the criteria established by the State Treasurer pursuant to subsection 2 and whether the applicant is qualified for the loan.~~

~~4. A person who operates or wishes to operate a fresh food retailer which is located in or will be located in an underserved community, low income area or adjacent qualified census tract in this State may submit an application for a loan to the State Treasurer.~~

~~5. The State Treasurer may approve an application for a loan submitted pursuant to subsection 4 if the State Treasurer finds that:~~

~~(a) The person operates or wishes to operate a fresh food retailer which is located in or will be located in an underserved community, low income area or adjacent qualified census tract in this State;~~

~~(b) There is adequate assurance that the loan will be repaid; and~~

~~(c) The making of the loan satisfies the criteria established by the State Treasurer pursuant to subsection 2.~~

~~6. If the State Treasurer approves an application for a loan pursuant to this section:~~

~~(a) The State Treasurer and the applicant must execute a loan agreement that contains such terms as the State Treasurer or person deems necessary; and~~

~~(b) The State Treasurer must fund the loan from the money in the Account.~~

~~7. The rate of interest on loans made pursuant to the program must be as low as practicable, but sufficient to pay the cost of the program.~~

~~8. After deducting the costs directly related to administering the program, payments of principal and interest on loans made to a person who operates or wishes to operate a fresh food retailer which is located in or will be located in an underserved community, low income area or adjacent qualified census tract in this State from money distributed from the Account must be deposited in the State General Fund for credit to the Account.~~

~~9. The State Treasurer may enter into a public private partnership with one or more private partners, including, without limitation, a nonprofit corporation and a community development entity, to administer the program developed pursuant to subsection 1. The public private partnership must be structured to facilitate the efficient and effective administration of the program in accordance with the provisions of this section. The State Treasurer may delegate to a private partner any of his or her administrative powers and duties specified in this section or any regulations adopted pursuant thereto as the State Treasurer deems necessary.~~

~~10. As used in this section:~~

~~—(a) “Account” means the Nevada Fresh Food Financing Initiative Account created by section 2 of this act.~~

~~—(b) “Adjacent qualified census tract” means a census tract that:~~

~~—(1) Is contiguous to an underserved community or low-income area, and~~

~~—(2) In the immediately preceding census, had a median household income of less than 120 percent of the median household income in this State or in the metropolitan area concerned, whichever is greater.~~

~~—(c) “Fresh food retailer” means a retail establishment, whether organized for profit or not for profit, which is principally devoted to the sale of meat, seafood, fresh fruits and vegetables, dairy products, dry groceries and household products or which derives a substantial amount of its gross revenue from the sale of such products. The term includes:~~

~~—(1) A farmers market, as defined in NRS 244.336.~~

~~—(2) A grocery store, as defined in NRS 597.225.~~

~~—(d) “Low-income area” means a census tract that in the immediately preceding census had:~~

~~—(1) Twenty percent or more of households with a household income below the federally designated level signifying poverty; or~~

~~—(2) A median household income of less than 120 percent of the median household income in this State or in the metropolitan area concerned, whichever is greater.~~

~~—(e) “Private partner” means a person with whom the State Treasurer enters into a public-private partnership.~~

~~—(f) “Public-private partnership” means a contract entered into by the State Treasurer and a private partner pursuant to this section.~~

~~—(g) “Underserved community” means a census tract determined to be an area with low supermarket access by either the United States Department of Agriculture as identified in the Food Access Research Atlas or through a methodology that has been adopted for use by another governmental or philanthropic healthy food initiative.] (Deleted by amendment.)~~

~~Sec. 4. [There is hereby appropriated from the State General Fund to the Nevada Fresh Food Financing Initiative Account created by section 2 of this act the sum of \$10,000,000 for the purposes described in section 3 of this act.]~~

~~(Deleted by amendment.)~~

~~Sec. 5. [The Legislature hereby finds and declares that:~~

~~—(a) Section 9 of Article 8 of the Nevada Constitution contains a provision commonly known as a “gift clause” which restricts the State under certain circumstances from donating or loaning the State’s money or credit to any company, association or corporation, except corporations formed for educational or charitable purposes.~~

~~—(b) In *Employers Insurance Company of Nevada v. State Board of Examiners*, 117 Nev. 249, 258 (2001), the Nevada Supreme Court held that the State loans its credit in violation of Section 9 of Article 8 of the Nevada~~

~~Constitution only when the State acts as a surety or guarantor for the debts of a company, corporation or association.~~

~~—(c) In State ex rel. Brennan v. Bowman, 89 Nev. 330, 333 (1973), the Nevada Supreme Court held that the State does not loan its credit in violation of Section 9 of Article 8 of the Nevada Constitution when the State issues revenue bonds which are not backed or guaranteed by the State’s general credit or taxing powers but are payable solely from revenues derived from the projects or programs financed by the revenue bonds.~~

~~—(d) In Lawrence v. Clark County, 127 Nev. 390, 405 (2011), the Nevada Supreme Court held that the State does not donate, loan or “gift” its money in violation of Section 9 of Article 8 of the Nevada Constitution when the State dispenses state funds for a public purpose and the State receives a valuable benefit or fair consideration in exchange for the dispensation of the state funds.~~

~~—(e) In McLaughlin v. Housing Authority of the City of Las Vegas, 68 Nev. 84, 93 (1951), and Lawrence v. Clark County, 127 Nev. 390, 399, 406 (2011), the Nevada Supreme Court held that when the Legislature authorizes a state agency to dispense state funds:~~

~~—(1) The courts will carefully examine whether the Legislature made an informed and appropriate finding that dispensation of the state funds serves a public purpose and the State receives a valuable benefit or fair consideration in exchange for the dispensation;~~

~~—(2) The courts will give great weight and due deference to the Legislature’s finding, and the courts will uphold the Legislature’s finding unless it clearly appears to be erroneous and without reasonable foundation; and~~

~~—(3) The courts will closely examine whether the dispensing state agency reviews all facts, figures and necessary information when making the dispensation, and when the state agency has done so, it will not be second-guessed by the courts.~~

~~—2. The Legislature hereby further finds and declares that:~~

~~—(a) In State ex rel. Brennan v. Bowman, 89 Nev. 330, 333 (1973), the Nevada Supreme Court held that legislation which promotes economic development and seeks to create, protect or enhance job opportunities “inures to the public benefit” and serves an important public purpose because it assists in “relieving unemployment and maintaining a stable economy.”~~

~~—(b) To promote, develop and maintain a stable economy in this State, it is necessary and essential for the State to incentivize the establishment and expansion of fresh food retailers which are located in underserved communities, low-income areas or adjacent qualified census tracts because:~~

~~—(1) Such fresh food retailers are more likely to employ persons who reside in the communities in which the fresh food retailers are located, including persons who are socially or economically disadvantaged, and therefore relieve unemployment in many segments of the population of this State that traditionally have experienced high rates of unemployment and underemployment; and~~

~~(2) Such fresh food retailers promote the public health of the residents of this State by providing access to healthy food options, thereby leading to a healthier population and more productive workforce.~~

~~3. The Legislature hereby further finds and declares that:~~

~~(a) The purpose of this act is to develop and carry into effect a state program under which persons who operate or wish to operate fresh food retailers which are located in or will be located in underserved communities, low income areas or adjacent qualified census tracts in this State may obtain loans from the program to finance the establishment or expansion of such fresh food retailers.~~

~~(b) The provisions of this act are intended to serve an important public purpose and ensure that the State receives valuable benefits and fair consideration in exchange for each loan from the program because:~~

~~(1) The program requires the dispensing state agency to review all facts, figures and necessary information when making each loan from the program; and~~

~~(2) The loans from the program will increase employment opportunities for residents of this State who reside in underserved communities, low income areas and adjacent qualified census tracts and will increase the overall public health of the people of this State by providing access to healthy food options, relieving unemployment, encouraging economic growth and maintaining a stable economy.~~ **(Deleted by amendment.)**

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

Assemblywoman Carlton moved the adoption of the amendment.

Remarks by Assemblywoman Carlton.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 445.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1024.

AN ACT relating to taxation; requiring certain persons who facilitate retail sales **of tangible personal property** in this State to collect and remit sales and use taxes owed on **such retail** sales which they facilitate; providing that certain persons who facilitate retail sales **of tangible personal property** in this State are not liable for the failure to collect and remit sales and use taxes under certain circumstances; ~~requiring~~ **authorizing the Department of Taxation to adopt regulations to require** certain persons who list or advertise products to customers in this State to collect and remit sales and use taxes unless certain notice and reporting requirements are met; **making an appropriation;** and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law imposes upon each retailer a sales tax measured by the gross receipts of the retailer from the retail sale of tangible personal property in this

State. (NRS 372.105, 374.110, 374.111) Under existing law, a retailer is required to collect the sales tax from the purchaser in a transaction to which the sales tax applies. (NRS 372.110, 374.115)

Existing law also imposes a use tax on the storage, use or other consumption in this State of tangible personal property purchased outside of this State from a retailer in a transaction that would have been subject to the sales tax in this State if it had occurred within this State. (NRS 372.185, 374.190, 374.191) Under existing law, the use tax is required to be paid by the purchaser who stores, uses or consumes the tangible personal property in this State, but any retailer maintaining a place of business in this State is required to collect the use tax from the purchaser at the time of the sale. (NRS 372.190, 372.195, 374.195, 374.200)

The provisions of existing law relating to the imposition, collection and remittance of sales and use taxes apply to every retailer who has a sufficient nexus with this State to satisfy the requirements of the United States Constitution, including certain retailers who do not maintain a physical presence in this State. (NRS 372.724, 374.724; LCB File No. 189-18)

**Sections 5 and 13** of this bill require a marketplace facilitator, which is defined by **section 3** of this bill ~~as a person~~ **to include certain persons** who directly or indirectly ~~facilitates~~ **facilitate** retail sales to customers in this State, to collect and remit sales and use taxes if the marketplace facilitator, in ~~the~~ **the** calendar year or in the immediately preceding calendar year: (1) had cumulative gross receipts from retail sales made to customers in this State, on its own behalf or on behalf of a seller, which exceeded \$100,000; or (2) made or facilitated 200 or more separate retail sales transactions, on its own behalf or on behalf of a seller. **Sections 5 and 13** provide that a marketplace facilitator is not required to collect and remit sales and use taxes if **: (1) the marketplace facilitator and a seller making sales through the marketplace facilitator have entered into a written agreement whereby the seller agrees to assume responsibility for the collection and remittance of sales and use taxes on retail sales made by the seller through the marketplace facilitator, and (2) the seller is registered with the Department of Taxation to collect sales and use taxes on retail sales made by the seller. Under section 5 and 13, a marketplace facilitator is required, upon the request of the Department of Taxation, to provide a report to the Department containing certain information about each seller with whom the marketplace facilitator has entered into such an agreement.**

**Sections 6 and 14** of this bill provide that a marketplace facilitator is not liable for the payment of sales and use tax for a retail sale which the marketplace facilitator made or facilitated on behalf of a seller if the marketplace facilitator provides proof that the marketplace facilitator made a reasonable effort to obtain accurate information from the seller regarding the retail sale and the failure to collect and remit the correct sales tax on the retail sale was due to incorrect information provided by the seller. **Sections 6 and 14** also provide that a marketplace facilitator is not liable for the payment of

sales and use tax, up to a certain amount, for a retail sale which the marketplace facilitator made or facilitated on behalf of a seller through the marketplace of the marketplace facilitator if the sale was made before January 1, ~~2022~~ **2021**, and the failure to collect the sales tax or use tax was due to an error other than an error in sourcing the retail sale.

**Sections 7 and 15** of this bill ~~require~~ **authorize the Department of Taxation to adopt regulations requiring** referrers, which ~~is~~ **are** defined in **sections 7 and 15** as certain persons who receive a fee in exchange for listing or advertising a product for a seller but do not collect money or other consideration from a customer, to impose, collect and remit sales and use taxes if ~~it~~, **in the calendar year or in the immediately preceding calendar year:** (1) 200 or more retail sales to customers in this State result from referrals made by the referrer; or (2) the cumulative gross receipts of sales resulting from such referrals exceed \$100,000. **Sections 7 and 15 require any regulations adopted by the Department to** provide that a referrer is not required to collect and remit sales and use taxes if the referrer complies with certain notice requirements and makes a ~~monthly~~ **periodic** report to the Department ~~of Taxation.~~

**Sections 8 and 16** of this bill provide that the provisions of this bill do not create a private right of action against a marketplace facilitator and that a marketplace facilitator is immune from civil liability for claims arising from the overpayment of sales and use tax if the marketplace facilitator acted in good faith.

**Section 16.5 of this bill makes an appropriation to the Interim Finance Committee for allocation to the Department of Taxation for personnel and operating costs incurred by the Department relating to the implementation of this bill.**

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

**Section 1.** Chapter 372 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 2.5, 3 and 4 of this act have the meanings ascribed to them in those sections.*

**Sec. 2.5.** *“Affiliate” means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For the purposes of this section, control shall be presumed to exist if any person directly or indirectly owns, controls, holds with the power to vote or holds proxies representing 10 percent or more of the voting securities of any other person. This presumption may be rebutted by a showing that control does not exist in fact.*

**Sec. 3.** **1.** *“Marketplace facilitator” means a person, including any affiliate of the person, who:*

~~117~~ (a) *Directly or indirectly, does one or more of the following to facilitate a retail sale:*

~~(a)~~ (1) *Lists, makes available or advertises tangible personal property for sale by a marketplace seller in a marketplace owned, operated or controlled by the person;*

~~(b)~~ (2) *Facilitates the sale of a marketplace seller's product through a marketplace by transmitting or otherwise communicating an offer or acceptance of a retail sale of tangible personal property between a marketplace seller and a purchaser in a forum including a shop, store, booth, catalog, Internet site or similar forum;*

~~(c)~~ (3) *Owens, rents, licenses, makes available or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark or patent that connects marketplace sellers to purchasers for the purpose of making retail sales of tangible personal property;*

~~(d)~~ (4) *Provides a marketplace for making retail sales of tangible personal property, or otherwise facilitates retail sales of tangible personal property, regardless of ownership or control of the tangible personal property that is the subject of the retail sale;*

~~(e)~~ (5) *Provides software development or research and development activities related to any activity described in this subsection, if such software development or research and development activities are directly related to the physical or electronic marketplace provided by a marketplace provider;*

~~(f)~~ (6) *Provides or offers fulfillment or storage services for a marketplace seller;*

~~(g)~~ (7) *Sets prices for the sale of tangible personal property by a marketplace seller;*

~~(h)~~ (8) *Provides or offers customer service to a marketplace seller or the customers of a marketplace seller, or accepts or assists with taking orders, returns or exchanges of tangible personal property sold by a marketplace seller; or*

~~(i)~~ (9) *Brands or otherwise identifies sales as those of the marketplace facilitator; and*

~~127~~ (b) *Directly or indirectly, does one or more of the following to facilitate a retail sale:*

~~(a)~~ (1) *Collects the sales price or purchase price of a retail sale of tangible personal property;*

~~(b)~~ (2) *Provides payment processing services for a retail sale of tangible personal property;*

~~(c)~~ (3) *Charges, collects or otherwise receives selling fees, listing fees, referral fees, closing fees, fees for inserting or making available tangible personal property on a marketplace or other consideration from the facilitation of a retail sale of tangible personal property, regardless of ownership or control of the tangible personal property that is the subject of the retail sale;*

~~[(4)]~~ (4) *Through terms and conditions, agreements or arrangements with a third party, collects payment in connection with a retail sale of tangible personal property from a purchaser and transmits that payment to the marketplace seller, regardless of whether the person collecting and transmitting such payment receives compensation or other consideration in exchange for the service; or*

~~[(5)]~~ (5) *Provides a virtual currency that purchasers are allowed or required to use to purchase tangible personal property.*

2. The term does not include:

(a) A person who provides Internet advertising services, including, without limitation, the listing of products for sale, if the person does not directly or indirectly or through an affiliate:

(1) Transmit or otherwise communicate an offer or acceptance of a retail sale of tangible personal property between a marketplace seller and a purchaser; and

(2) Do one or more of the activities listed in paragraph (b) of subsection 1.

(b) A person who arranges, books or otherwise facilitates, for a commission, fee or other consideration, vacation or travel packages or rental car or other travel reservations or accommodations through a marketplace owned, operated or controlled by the person. The exclusion set forth in this paragraph applies only with respect to the arranging, booking or facilitation, for a commission, fee or other consideration, of the lease or rental of a passenger car, as defined in NRS 482.087.

Sec. 4. "Marketplace seller" means:

1. *A seller who makes retail sales through any physical or electronic marketplace owned, operated or controlled by a marketplace facilitator, even if such seller would not have been required to collect and remit the sales tax or use tax had the sale not been made through such marketplace; or*

2. *A seller who makes retail sales resulting from a referral by a referrer, even if such seller would not have been required to collect and remit the sales tax or use tax had the sale not been made through such referrer.*

Sec. 5. 1. *Except as otherwise provided in this section and section 6 of this act, the provisions of this chapter relating to the imposition, collection and remittance of the sales tax, and the collection and remittance of the use tax, apply to a marketplace facilitator during a calendar year in which or during a calendar year immediately ~~preceding~~ following any calendar year in which:*

*(a) The cumulative gross receipts from retail sales made or facilitated by the marketplace facilitator on its own behalf or for one or more marketplace sellers to customers in this State exceed \$100,000; or*

*(b) The marketplace facilitator makes or facilitates 200 or more separate retail sales transactions on his or her own behalf or for one or more marketplace sellers to customers in this State.*

2. *The provisions of this chapter relating to the imposition, collection and remittance of sales tax and the collection and remittance of use tax do not apply to a marketplace facilitator described in subsection 1 if ~~the~~ :*

*(a) The marketplace facilitator and the marketplace seller have entered into a written agreement whereby the marketplace seller assumes responsibility for the collection and remittance of the sales tax, and the collection and remittance of the use tax, for retail sales made by the marketplace seller through the marketplace facilitator ~~for~~ ; and*

*(b) The marketplace seller has obtained a permit pursuant to NRS 372.125 or registered pursuant to NRS 360B.200.*

*↳ Upon request of the Department, a marketplace facilitator shall provide to the Department a report containing the name of each marketplace seller with whom the marketplace facilitator has entered into an agreement pursuant to this subsection and such other information as the Department determines is necessary to ensure that each marketplace seller with whom the marketplace facilitator has entered into an agreement pursuant to this subsection has obtained a permit pursuant to NRS 372.125 or registered pursuant to NRS 360B.200.*

3. *~~The~~ Except as otherwise provided in this section and section 6 of this act, the provisions of subsection 1 apply regardless of whether:*

*(a) The marketplace seller for whom a marketplace facilitator makes or facilitates a retail sale would not have been required to collect and remit the sales tax or the use tax had the retail sale not been facilitated by the marketplace facilitator;*

*(b) The marketplace seller for whom a marketplace facilitator makes or facilitates a retail sale was required to register with the Department pursuant to NRS 360B.200 or obtain a permit pursuant to NRS 372.125; or*

*(c) The amount of the sales price of a retail sale ~~that~~ will ultimately accrue to or benefit the marketplace facilitator, the marketplace seller or any other person.*

4. *In administering the provisions of this chapter, the Department shall construe the terms “seller,” “retailer” and “retailer maintaining a place of business in this State” in accordance with the provisions of this section.*

Sec. 6. 1. *In administering the provisions of this chapter, the Department shall not hold a marketplace facilitator liable for the payment of any tax imposed by this chapter which is attributable to a retail sale made or facilitated on behalf of a marketplace seller who is not an affiliate of the marketplace facilitator if:*

*(a) The marketplace facilitator provides proof satisfactory to the Department that the marketplace facilitator has made a reasonable effort to obtain accurate information from the marketplace seller about the retail sale; and*

*(b) The failure to collect and remit the correct tax on the retail sale was due to incorrect information provided to the marketplace facilitator by the marketplace seller.*

2. Except as otherwise provided in subsection 3, in administering the provisions of this chapter, the Department shall not hold a marketplace facilitator liable for the payment of any tax imposed by this chapter which is attributable to a retail sale made or facilitated on behalf of a marketplace seller who is not an affiliate of the marketplace facilitator if the marketplace facilitator provides proof satisfactory to the Department that:

- (a) The retail sale was made before January 1, ~~2022,~~ 2021;
- (b) The retail sale was made through a marketplace of the marketplace facilitator; and
- (c) The failure to collect the sales tax or use tax was due to an error other than an error in sourcing the retail sale.

3. The relief from liability provided pursuant to subsection 2 for the 2019 and 2020 calendar year, respectively, shall not exceed ~~the following percentage~~ 5 percent of the total sales and use tax owed for the calendar year on the cumulative gross receipts of the marketplace facilitator from retail sales made or facilitated by the marketplace facilitator for one or more marketplace sellers to customers in this State. ~~[during the calendar year]~~

- ~~(a) During the 2019 and 2020 calendar years, 10 percent; and~~
- ~~(b) During the 2021 calendar year, 5 percent.~~

4. If a marketplace ~~seller~~ facilitator is relieved of liability for the collection and remittance of any amount of the sales tax or use tax pursuant to subsection 1, the marketplace seller or purchaser, as applicable, is liable for the payment of such uncollected, unpaid or unremitted tax.

5. To the extent that a marketplace ~~seller~~ facilitator is relieved of liability for the collection and remittance of any tax pursuant to subsections 2 and 3, the marketplace seller for whom the marketplace facilitator made or facilitated the retail sale giving rise to the tax is also relieved of such liability.

6. Nothing in this section shall be construed to relieve any person of liability for collecting but failing to remit to the Department any tax imposed by this chapter.

Sec. 7. 1. ~~Except~~ The Department may provide by regulation that, except as otherwise provided in this section, the provisions of this chapter relating to the imposition, collection and remittance of the sales tax, and the collection and remittance of the use tax, apply to a referrer during a calendar year in which, or during a calendar year immediately ~~preceding~~ following any calendar year in which:

(a) The cumulative gross receipts from retail sales to customers in this State resulting from referrals from a platform of the referrer are in excess of \$100,000; or

(b) There are 200 or more separate retail sales transactions involving sales to customers in this State resulting from referrals from a platform of the referrer.

2. ~~The~~ Any regulations adopted by the Department pursuant to subsection 1 must provide that the provisions of this chapter relating to the

*imposition, collection and remittance of the sales tax, and the collection and remittance of the use tax do not apply to a referrer described in subsection 1 if the referrer:*

*(a) Posts a conspicuous notice on each platform of the referrer that includes all of the following:*

*(1) A statement that sales and use tax is due on certain purchases;*

*(2) A statement that the marketplace seller from whom the person is purchasing on the platform may or may not collect and remit sales and use tax on a purchase;*

*(3) A statement that Nevada requires the purchaser to pay sales or use tax and file a sales and use tax return if sales or use tax is not collected at the time of the sale by the marketplace seller;*

*(4) Information informing the purchaser that the notice is provided under the requirements of this section; and*

*(5) Instructions for obtaining additional information from the Department regarding whether and how to remit sales and use tax;*

*(b) The referrer provides a monthly notice to each marketplace seller to whom the referrer made a referral of a potential customer located in this State during the previous calendar year, which monthly notice shall contain all of the following:*

*(1) A statement that Nevada imposes sales and use tax on retail sales in this State;*

*(2) A statement that a marketplace facilitator or other retailer making retail sales in this State must collect and remit sales and use tax; and*

*(3) Instructions for obtaining additional information from the Department regarding the collection and remittance of sales and use tax; and*

*(c) The referrer provides the Department with ~~monthly~~ periodic reports in an electronic format and in the manner prescribed by the Department, which ~~monthly~~ reports contain all of the following:*

*(1) A list of marketplace sellers who received a notice from the referrer pursuant to paragraph (b);*

*(2) A list of marketplace sellers that collect and remit sales and use tax and that list or advertise the marketplace seller's products for sale on a platform of the referrer; and*

*(3) An affidavit signed under penalty of perjury from an officer of the referrer affirming that the referrer made reasonable efforts to comply with the applicable sales and use tax notice and reporting requirements of this subsection.*

*3. ~~For~~ Any regulations adopted by the Department pursuant to subsection 1 must provide that in administering the provisions of this chapter, the Department shall construe the terms "seller," "retailer" and "retailer maintaining a place of business in this State" in accordance with the provisions of this section.*

4. ~~[[The provisions of this section]~~ Any regulations adopted by the Department pursuant to subsection 1 must apply only to referrals by a referrer and shall not preclude the applicability of other provisions of this chapter to a person who is a referrer and is also a retailer, a marketplace facilitator or a marketplace seller.

5. As used in this section:

(a) "Platform" means an electronic or physical medium, including, without limitation, an Internet site or catalog, that is owned, operated or controlled by a referrer.

(b) "Referral" means the transfer through telephone, Internet link or other means by a referrer of a potential customer to a retailer or seller who advertises or lists products for sale on a platform of the referrer.

(c) "Referrer":

(1) Means a person who does all of the following:

(I) Contracts or otherwise agrees with a retailer, seller or marketplace facilitator to list or advertise for sale a product of the retailer, seller or marketplace facilitator on a platform, provided such listing or advertisement identifies whether or not the retailer, seller or marketplace facilitator collects sales and use tax;

(II) Receives a commission, fee or other consideration from the retailer, seller or marketplace facilitator for the listing or advertisement;

(III) Provides referrals to a retailer, seller or marketplace facilitator, or an affiliate of a retailer, seller or marketplace facilitator; and

(IV) Does not collect money or other consideration from the customer for the transaction.

(2) Does not include:

(I) A person primarily engaged in the business of printing or publishing a newspaper; or

(II) A person who does not provide the retailer's, seller's or marketplace facilitator's shipping terms and who does not advertise whether a retailer, seller or marketplace facilitator collects sales or use tax.

Sec. 8. 1. Nothing in sections 2 to 8, inclusive, of this act shall be construed to create any remedy or private right of action against a marketplace facilitator.

2. A marketplace facilitator that is required to collect taxes imposed by this chapter is immune from civil liability for claims arising from or related to the overpayment of taxes imposed by this chapter if the marketplace facilitator acted in good faith and without malicious intent.

3. Nothing in this section shall apply to or otherwise limit:

(a) Any claim, action, mandate, power, remedy or discretion of the Department, or an agent or designee of the Department.

(b) The right of a taxpayer to seek a refund pursuant to NRS 372.630 to 372.720, inclusive.

Sec. 9. Chapter 374 of NRS is hereby amended by adding thereto the provisions set forth as sections 10 to 16, inclusive, of this act.

Sec. 10. *As used in sections 10 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 10.5, 11 and 12 of this act have the meanings ascribed to them in those sections.*

Sec. 10.5. *“Affiliate” means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For the purposes of this section, control shall be presumed to exist if any person directly or indirectly owns, controls, holds with the power to vote or holds proxies representing 10 percent or more of the voting securities of any other person. This presumption may be rebutted by a showing that control does not exist in fact.*

Sec. 11. 1. *“Marketplace facilitator” means a person, including any affiliate of the person, who:*

~~1.~~ (a) *Directly or indirectly, does one or more of the following to facilitate a retail sale:*

~~(a)~~ (1) *Lists, makes available or advertises tangible personal property for sale by a marketplace seller in a marketplace owned, operated or controlled by the person;*

~~(b)~~ (2) *Facilitates the sale of a marketplace seller’s product through a marketplace by transmitting or otherwise communicating an offer or acceptance of a retail sale of tangible personal property between a marketplace seller and a purchaser in a forum including a shop, store, booth, catalog, internet site or similar forum;*

~~(c)~~ (3) *Owns, rents, licenses, makes available or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark or patent that connects marketplace sellers to purchasers for the purpose of making retail sales of tangible personal property;*

~~(d)~~ (4) *Provides a marketplace for making retail sales of tangible personal property, or otherwise facilitates retail sales of tangible personal property, regardless of ownership or control of the tangible personal property that is the subject of the retail sale;*

~~(e)~~ (5) *Provides software development or research and development activities related to any activity described in this subsection, if such software development or research and development activities are directly related to the physical or electronic marketplace provided by a marketplace provider;*

~~(f)~~ (6) *Provides or offers fulfillment or storage services for a marketplace seller;*

~~(g)~~ (7) *Sets prices for the sale of tangible personal property by a marketplace seller;*

~~(h)~~ (8) *Provides or offers customer service to a marketplace seller or the customers of a marketplace seller, or accepts or assists with taking orders, returns or exchanges of tangible personal property sold by a marketplace seller; or*

~~[(a)]~~ (9) Brands or otherwise identifies sales as those of the marketplace facilitator; and

~~[(2)]~~ (b) Directly or indirectly, does one or more of the following to facilitate a retail sale:

~~[(a)]~~ (1) Collects the sales price or purchase price of a retail sale of tangible personal property;

~~[(b)]~~ (2) Provides payment processing services for a retail sale of tangible personal property;

~~[(c)]~~ (3) Charges, collects or otherwise receives selling fees, listing fees, referral fees, closing fees, fees for inserting or making available tangible personal property on a marketplace or other consideration from the facilitation of a retail sale of tangible personal property, regardless of ownership or control of the tangible personal property that is the subject of the retail sale;

~~[(d)]~~ (4) Through terms and conditions, agreements or arrangements with a third party, collects payment in connection with a retail sale of tangible personal property from a purchaser and transmits that payment to the marketplace seller, regardless of whether the person collecting and transmitting such payment receives compensation or other consideration in exchange for the service; or

~~[(e)]~~ (5) Provides a virtual currency that purchasers are allowed or required to use to purchase tangible personal property.

2. The term does not include:

(a) A person who provides Internet advertising services, including, without limitation, the listing of products for sale, if the person does not directly or indirectly or through an affiliate:

(1) Transmit or otherwise communicate an offer or acceptance of a retail sale of tangible personal property between a marketplace seller and a purchaser; and

(2) Do one or more of the activities listed in paragraph (b) of subsection 1.

(b) A person who arranges, books or otherwise facilitates, for a commission, fee or other consideration, vacation or travel packages or rental car or other travel reservations or accommodations through a marketplace owned, operated or controlled by the person. The exclusion set forth in this paragraph applies only with respect to the arranging, booking or facilitation, for a commission, fee or other consideration, of the lease or rental of a passenger car, as defined in NRS 482.087.

Sec. 12. "Marketplace seller" means:

1. A seller who makes retail sales through any physical or electronic marketplace owned, operated or controlled by a marketplace facilitator, even if such seller would not have been required to collect and remit the sales tax or use tax had the sale not been made through such marketplace; or

2. A seller who makes retail sales resulting from a referral by a referrer, even if such seller would not have been required to collect and remit the sales tax or use tax had the sale not been made through such referrer.

Sec. 13. 1. Except as otherwise provided in this section and section 14 of this act, the provisions of this chapter relating to the imposition, collection and remittance of the sales tax, and the collection and remittance of the use tax, apply to a marketplace facilitator during a calendar year in which, or during a calendar year immediately ~~preceding~~ following any calendar year in which:

(a) The cumulative gross receipts from retail sales made or facilitated by the marketplace facilitator on his or her own behalf or for one or more marketplace sellers to customers in this State exceed \$100,000; or

(b) The marketplace facilitator makes or facilitates 200 or more separate retail sales transactions on his or her own behalf or for one or more marketplace sellers to customers in this State.

2. The provisions of this chapter relating to the imposition, collection and remittance of the sales tax, and the collection and remittance of the use tax do not apply to a marketplace facilitator described in subsection 1 if ~~the~~   
:

(a) The marketplace facilitator and the marketplace seller have entered into a written agreement whereby the marketplace seller assumes responsibility for the collection and remittance of the sales tax, and the collection and remittance of the use tax for retail sales made by the marketplace seller through the marketplace facilitator ~~+~~; and

(b) The marketplace seller has obtained a permit pursuant to NRS 374.130 or registered pursuant to NRS 360B.200.

↳ Upon request of the Department, a marketplace facilitator shall provide to the Department a report containing the name of each marketplace seller with whom the marketplace facilitator has entered into an agreement pursuant to this subsection and such other information as the Department determines is necessary to ensure that each marketplace seller with whom the marketplace facilitator has entered into an agreement pursuant to this subsection has obtained a permit pursuant to NRS 374.130 or registered pursuant to NRS 360B.200.

3. The provisions of subsection 1 apply regardless of whether:

(a) The marketplace seller for whom a marketplace facilitator makes or facilitates a retail sale would not have been required to collect and remit the sales tax or use tax had the retail sale not been facilitated by the marketplace facilitator.

(b) The marketplace seller for whom a marketplace facilitator makes or facilitates a retail sale was required to register with the Department pursuant to NRS 360B.200 or obtain a permit pursuant to NRS 374.130.

(c) The amount of the sales price of a retail sale ~~that~~ will ultimately accrue to or benefit the marketplace facilitator, the marketplace seller or any other person.

4. In administering the provisions of this chapter, the Department shall construe the terms “seller,” “retailer” and “retailer maintaining a place of business in this State” in accordance with the provisions of this section.

Sec. 14. 1. In administering the provisions of this chapter, the Department shall not hold a marketplace facilitator liable for the payment of any tax imposed by this chapter which is attributable to a retail sale made or facilitated on behalf of a marketplace seller who is not an affiliate of the marketplace facilitator if:

(a) The marketplace facilitator provides proof satisfactory to the Department that the marketplace facilitator has made a reasonable effort to obtain accurate information from the marketplace seller about the retail sale; and

(b) The failure to collect and remit the correct tax on the retail sale was due to incorrect information provided to the marketplace facilitator by the marketplace seller.

2. Except as otherwise provided in subsection 3, in administering the provisions of this chapter, the Department shall not hold a marketplace facilitator liable for the payment of any tax imposed by this chapter which is attributable to a retail sale made or facilitated on behalf of a marketplace seller who is not an affiliate of the marketplace facilitator if the marketplace facilitator provides proof satisfactory to the Department that:

(a) The retail sale was made before January 1, ~~2022~~ 2021;

(b) The retail sale was made through a marketplace of the marketplace facilitator; and

(c) The failure to collect the sales tax or use tax was due to an error other than an error in sourcing the retail sale.

3. The relief from liability provided pursuant to subsection 2 for the 2019 and 2020 calendar year, respectively, shall not exceed 5 percent of the total sales and use tax owed for the calendar year on the cumulative gross receipts of the marketplace facilitator from retail sales made or facilitated by the marketplace facilitator for one or more marketplace sellers to customers in this State. ~~for the calendar year.~~

~~(a) During the 2019 and 2020 calendar years, 10 percent; and~~

~~(b) During the 2021 calendar year, 5 percent.~~

4. If a marketplace ~~seller~~ facilitator is relieved of liability for the collection and remittance of any amount of the sales tax or use tax pursuant to subsection 1, the marketplace seller or purchaser, as applicable, is liable for the payment of such uncollected, unpaid or unremitted tax.

5. To the extent that a marketplace ~~seller~~ facilitator is relieved of liability for the collection and remittance of any tax pursuant to subsections 2 and 3, the marketplace seller for whom the marketplace facilitator made or facilitated the retail sale giving rise to the tax is also relieved of such liability.

6. *Nothing in this section shall be construed to relieve any person of liability for collecting but failing to remit to the Department any tax imposed by this chapter.*

Sec. 15. 1. ~~Except~~ The Department may provide by regulation that, except as otherwise provided in this section, the provisions of this chapter relating to the imposition, collection and remittance of the sales tax, and the collection and remittance of the use tax, apply to a referrer during a calendar year in which, or during a calendar year immediately ~~preceding~~ following any calendar year in which:

(a) *The cumulative gross receipts from retail sales to customers in this State resulting from referrals from a platform of the referrer are in excess of \$100,000; or*

(b) *There are 200 or more separate retail sales transactions involving sales to customers in this State resulting from referrals from a platform of the referrer.*

2. ~~The~~ Any regulation adopted by the Department pursuant to subsection 1 must provide that the provisions of this chapter relating to the imposition, collection and remittance of the sales tax and the collection and remittance of the use tax do not apply to a referrer described in subsection 1 if the referrer:

(a) *Posts a conspicuous notice on each platform of the referrer that includes all of the following:*

(1) *A statement that sales and use tax is due on certain purchases;*

(2) *A statement that the marketplace seller from whom the person is purchasing on the platform may or may not collect and remit sales and use tax on a purchase;*

(3) *A statement that Nevada requires the purchaser to pay sales or use tax and file a sales and use tax return if sales or use tax is not collected at the time of the sale by the marketplace seller;*

(4) *Information informing the purchaser that the notice is provided under the requirements of this section; and*

(5) *Instructions for obtaining additional information from the Department regarding whether and how to remit sales and use tax;*

(b) *The referrer provides a monthly notice to each marketplace seller to whom the referrer made a referral of a potential customer located in this State during the previous calendar year, which monthly notice shall contain all of the following:*

(1) *A statement that Nevada imposes sales and use tax on retail sales in this State;*

(2) *A statement that a marketplace facilitator or other retailer making retail sales in this State must collect and remit sales and use tax; and*

(3) *Instructions for obtaining additional information from the Department regarding the collection and remittance of sales and use tax; and*

(c) *The referrer provides the Department with ~~monthly~~ periodic reports in an electronic format and in the manner prescribed by the Department, which ~~monthly~~ reports contain all of the following:*

(1) *A list of marketplace sellers who received a notice from the referrer pursuant to paragraph (b);*

(2) *A list of marketplace sellers that collect and remit sales and use tax and that list or advertise the marketplace seller's products for sale on a platform of the referrer; and*

(3) *An affidavit signed under penalty of perjury from an officer of the referrer affirming that the referrer made reasonable efforts to comply with the applicable sales and use tax notice and reporting requirements of this subsection.*

3. ~~Any~~ Any regulations adopted by the Department pursuant to subsection 1 must provide that in administering the provisions of this chapter, the Department shall construe the terms "seller," "retailer" and "retailer maintaining a place of business in this State" in accordance with the provisions of this section.

4. ~~The provisions of this section~~ Any regulations adopted by the Department pursuant to subsection 1 must apply only to referrals by a referrer and shall not preclude the applicability of other provisions of this chapter to a person who is a referrer and is also a retailer, a marketplace facilitator or a marketplace seller.

5. *As used in this section:*

(a) *"Platform" means an electronic or physical medium, including, without limitation, an Internet site or catalog, that is owned, operated or controlled by a referrer.*

(b) *"Referral" means the transfer through telephone, Internet link or other means by a referrer of a potential customer to a retailer or seller who advertises or lists products for sale on a platform of the referrer.*

(c) *"Referrer":*

(1) *Means a person who does all of the following:*

(I) *Contracts or otherwise agrees with a retailer, seller or marketplace facilitator to list or advertise for sale a product of the retailer, seller or marketplace facilitator on a platform, provided such listing or advertisement identifies whether or not the retailer, seller or marketplace facilitator collects sales and use tax;*

(II) *Receives a commission, fee or other consideration from the retailer, seller or marketplace facilitator for the listing or advertisement;*

(III) *Provides referrals to a retailer, seller or marketplace facilitator, or an affiliate of a retailer, seller or marketplace facilitator; and*

(IV) *Does not collect money or other consideration from the customer for the transaction.*

(2) *Does not include:*

*(I) A person primarily engaged in the business of printing or publishing a newspaper; or*

*(II) A person who does not provide the retailer's, seller's or marketplace facilitator's shipping terms and who does not advertise whether a retailer, seller or marketplace facilitator collects sales or use tax.*

**Sec. 16. 1.** *Nothing in sections 10 to 16, inclusive, of this act shall be construed to create any remedy or private right of action against a marketplace facilitator.*

**2.** *A marketplace facilitator that is required to collect taxes imposed by this chapter is immune from civil liability for claims arising from or related to the overpayment of taxes imposed by this chapter if the marketplace facilitator acted in good faith and without malicious intent.*

**3.** *Nothing in this section shall apply to or otherwise limit:*

*(a) Any claim, action, mandate, power, remedy or discretion of the Department, or an agent or designee of the Department.*

*(b) The right of a taxpayer to seek a refund pursuant to NRS 374.635 to 374.720, inclusive.*

**Sec. 16.5. 1.** There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of \$1,000,000 for allocation to the Department of Taxation for personnel and operating costs incurred by the Department relating to the implementation of this act. Money appropriated pursuant to this subsection can only be allocated by the Interim Finance Committee upon submittal by the Department of Taxation of an analysis demonstrating the need for the funds and a plan for the utilization of the funding.

**2.** Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2021, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 17, 2021, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 17, 2021.

**Sec. 17. 1.** This section and section 16.5 of this act ~~becomes~~ become effective on July 1, 2019.

**2.** Sections 1 to 16, inclusive, of this act become effective on October 1, 2019.

Assemblywoman Carlton moved the adoption of the amendment.

Remarks by Assemblywoman Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 516.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1030.

AN ACT making appropriations to the Interim Finance Committee for the unanticipated costs related to the implementation of Marsy's Law; and providing other matters properly relating thereto.

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

**Section 1.** There is hereby appropriated from the State General Fund to the Interim Finance Committee for unanticipated costs related to the implementation of Senate Joint Resolution No. 17 of the 78th Session of the Nevada Legislature, as approved and ratified by the people at the 2018 General Election, and commonly known as Marsy's Law the following sums:

For the Fiscal Year 2019-2020 ..... ~~(\$7,500,000)~~ \$5,000,000

For the Fiscal Year 2020-2021 ..... ~~(\$7,500,000)~~ \$5,000,000

**Sec. 2.** The sums appropriated by section 1 of this act are available for either fiscal year. Any remaining balance of those sums must not be committed for expenditure after June 30, 2021, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 17, 2021, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 17, 2021.

**Sec. 3.** This act becomes effective on July 1, 2019.

Assemblywoman Carlton moved the adoption of the amendment.

Remarks by Assemblywoman Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 50.

Bill read third time.

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

Amendment No. 1035.

AN ACT relating to the state personnel system; revising provisions governing the temporary limited appointment of persons with disabilities by state agencies; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

With limited exceptions, existing law requires agencies of the Executive Department of the State Government to make temporary limited appointments of persons with disabilities who are certified by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation to certain

positions in state service for a period not to exceed 700 hours. ~~{(NRS 284.327) Section 1 of this bill makes such appointments by those agencies discretionary, but requires the agencies to consider for a temporary limited appointment to such an available position any person with a disability who is certified by the Rehabilitation Division and is eligible for appointment to the position.~~

—For purposes of temporary limited appointments, existing law requires a person with a disability who is certified by the Rehabilitation Division to: (1) possess the training and skills necessary for the position for which the person is certified; and (2) be able to perform, with or without accommodation, the essential functions of that position. (NRS 284.327) **Section 1** of this bill clarifies that such an accommodation must be reasonable.

Existing law prohibits an appointing authority from making a temporary limited appointment of a certified person with a disability if the certified person with a disability currently receives benefits from the agency of the Executive Department of the State Government in which the position exists. (NRS 284.327) **Section 1** of this bill removes this prohibition and requires that the receipt of such benefits by a certified person with a disability not be deemed to create an actual or potential conflict of interest for purposes of the additional prohibition in existing law against an appointing authority making a temporary limited appointment in circumstances where an actual or potential conflict of interest would be created between the certified person with a disability and the agency in which the position exists.

**Section 2** of this bill makes these provisions become effective on October 1, 2019.

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

**Section 1.** NRS 284.327 is hereby amended to read as follows:

284.327 1. Except as otherwise provided in subsection 4, ~~{5}~~ if an appointing authority has a position available and the position is not required to be filled in another manner pursuant to this chapter, to assist persons with disabilities certified by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation, the appointing authority shall, if possible, make a ~~f~~

~~—(a) Shall consider for the position any such certified person with a disability who is eligible for appointment to the position; and~~

~~—(b) May make a temporary limited appointment of any such certified person with a disability to the position.~~

~~—2. A} temporary limited appointment of a certified person with a disability for a period ~~{pursuant to this section must}~~ not to exceed ~~{a period of}~~ 700 hours notwithstanding that the position so filled is a continuing position.~~

2. ~~{3}~~ A person with a disability who is certified by the Rehabilitation Division must be placed on the appropriate list for which the person is eligible. Each such person must:

(a) Possess the training and skills necessary for the position for which the person is certified; and

(b) Be able to perform, with or without *reasonable* accommodation, the essential functions of that position.

3. ~~4.1~~ The Rehabilitation Division must be notified of an appointing authority's request for a list of eligibility on which the names of one or more certified persons with disabilities appear. A temporary limited appointment of a certified person with a disability pursuant to this section constitutes the person's examination as required by NRS 284.215.

4. ~~5.1~~ An appointing authority shall not make a temporary limited appointment of a certified person with a disability pursuant to this section ~~+~~

~~—(a) If the certified person with a disability currently receives benefits from the agency of the Executive Department of the State Government in which the position exists; or~~

~~—(b) In~~ *in* any ~~[other circumstances]~~ *circumstance* that the appointing authority determines would create an actual or potential conflict of interest between the certified person with the disability and the agency of the Executive Department of the State Government in which the position exists. ***For the purposes of this subsection, the receipt of benefits by the certified person with the disability from the agency of the Executive Department of the State Government in which the position exists shall not be deemed to create an actual or potential conflict of interest between the certified person with the disability and the agency.***

5. ~~6.1~~ Each appointing authority shall ensure that there is at least one person on the staff of the appointing authority who has training concerning:

(a) Making a temporary limited appointment of a certified person with a disability pursuant to this section; and

(b) The unique challenges a person with a disability faces in the workplace.

6. ~~7.1~~ The Commission shall adopt regulations to carry out the provisions of subsections 1 and 2.

~~7. 1, 2 and 3.~~

~~8.1~~ This section does not deter or prevent appointing authorities from employing:

(a) A person with a disability if the person is available and eligible for permanent employment.

(b) A person with a disability who is employed pursuant to the provisions of subsection 1 in permanent employment if the person qualifies for permanent employment before the termination of the person's temporary limited appointment.

8. ~~9.1~~ If a person appointed pursuant to this section is subsequently appointed to a permanent position during or after the 700-hour period, the 700 hours or portion thereof counts toward the employee's probationary period.

**Sec. 2.** This act becomes effective upon passage and approval for the purposes of adopting regulations and performing any other preparatory

administrative tasks that are necessary to carry out the provisions of this act, and on October 1, 2019, for all other purposes.

Assemblywoman Jauregui moved the adoption of the amendment.

Remarks by Assemblywoman Jauregui.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 250.

Bill read third time.

Remarks by Assemblywoman Swank.

ASSEMBLYWOMAN SWANK:

Assembly Bill 250 appropriates \$13,980 from the state General Fund to the Legislative Fund for five members of the Legislative Committee on Public Lands and one staff member to attend informational meetings in Washington, D.C.

Roll call on Assembly Bill No. 250:

YEAS—39.

NAYS—Edwards.

EXCUSED—Hambrick.

VACANT—1.

Assembly Bill No. 250 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 489.

Bill read third time.

Remarks by Assemblywoman Monroe-Moreno.

ASSEMBLYWOMAN MONROE-MORENO:

As amended, A.B. 489 authorizes the Administrator of the Office of Grant Procurement to provide grant training and technical assistance to state agencies, local governments, tribal governments, and nonprofit organizations as well as to provide administrative support to the Nevada Advisory Council for Federal Assistance.

Roll call on Assembly Bill No. 489:

YEAS—40.

NAYS—None.

EXCUSED—Hambrick.

VACANT—1.

Assembly Bill No. 489 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 541.

Bill read third time.

Remarks by Assemblywomen Carlton and Titus.

ASSEMBLYWOMAN CARLTON:

Assembly Bill 541 revises the provisions governing the distribution of the state portion of the governmental services tax, otherwise known as the GST, for the 2019-2021 biennium. *Nevada Revised Statutes* currently requires 25 percent of the proceeds of the portion of the GST generated

from the 10 percent depreciation schedule change originally approved in S.B. 429 of the 2009 Session to be deposited in the State General Fund, and 75 percent of these proceeds to be deposited in the State Highway Fund. Assembly Bill 541 removes the June 30, 2019 expiration date for the current distribution and provides that the State General Fund will continue to receive 25 percent of these proceeds and the State Highway Fund will continue to receive 75 percent of these proceeds on a permanent basis beginning in Fiscal Year 2020.

ASSEMBLYWOMAN TITUS:

I rise in opposition to Senate Bill 541. Putting this in permanent statute decreases the flexibility of the state to put money, as adjusted, where it needs to, I encourage folks to vote no on this.

Roll call on Senate Bill No. 541:

YEAS—27.

NAYS—Carrillo, Edwards, Ellison, Hafen, Hansen, Hardy, Kramer, Krasner, Leavitt, Roberts, Titus, Tolles, Wheeler—13.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 541 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 216.

Bill read third time.

Remarks by Assemblywoman Swank.

ASSEMBLYWOMAN SWANK:

Assembly Bill 216 requires the State Treasurer to establish a statewide database containing information relating to sources of funding for higher education. It also requires the Attorney General to establish a program to connect victims of domestic violence and human trafficking with the information contained in the database.

Roll call on Assembly Bill No. 216:

YEAS—40.

NAYS—None.

EXCUSED—Hambrick.

VACANT—1.

Assembly Bill No. 216 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 300.

Bill read third time.

Roll call on Assembly Bill No. 300:

YEAS—40.

NAYS—None.

EXCUSED—Hambrick.

VACANT—1.

Assembly Bill No. 300 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 533.

Bill read third time.

## Remarks by Assemblyman Yeager.

## ASSEMBLYMAN YEAGER:

Assembly Bill 533 creates the Cannabis Advisory Commission and the Cannabis Compliance Board, including the membership, duties, and compensation of the Commission and the Board. The bill creates an Executive Director position and provides for the use of category II POST-certified enforcement positions by the Cannabis Compliance Board. The bill further repeals, reenacts, revises, and reorganizes certain provisions into a new title of *Nevada Revised Statutes*. The bill, as amended, transfers the authority to license and regulate persons and establishments engaged in certain activities related to cannabis from the Department of Taxation to the Cannabis Compliance Board and requires the Department to perform certain audits of licensees.

## Roll call on Assembly Bill No. 533:

YEAS—39.

NAYS—Kramer.

EXCUSED—Hambrick.

VACANT—1.

Assembly Bill No. 533 having received a constitutional majority,  
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

## Assembly Bill No. 540.

Bill read third time.

## Roll call on Assembly Bill No. 540:

YEAS—40.

NAYS—None.

EXCUSED—Hambrick.

VACANT—1.

Assembly Bill No. 540 having received a constitutional majority,  
Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

## Senate Bill No. 254.

Bill read third time.

Remarks by Assemblyman Watts.

## ASSEMBLYMAN WATTS:

Senate Bill 254 requires the State Department of Conservation and Natural Resources to issue an annual report concerning a statewide inventory and projection of greenhouse gas emissions. The report must provide policies to achieve reductions in greenhouse gas emissions and an assessment of whether such policies support long-term reductions of emissions to zero or near-zero by the year 2050.

## Roll call on Senate Bill No. 254:

YEAS—28.

NAYS—Edwards, Ellison, Hafen, Hansen, Hardy, Kramer, Krasner, Leavitt, Roberts, Titus,  
Tolles, Wheeler—12.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 254 having received a constitutional majority, Mr. Speaker  
declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 276.

Bill read third time.

Roll call on Senate Bill No. 276:

YEAS—40.

NAYS—None.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 276 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 295.

Bill read third time.

Remarks by Assemblyman Smith.

ASSEMBLYMAN SMITH:

Senate Bill 295 creates the National Guard Youth Challenge Program to be administered by the Office of the Military for the purpose of educating, training, and mentoring youths who have dropped out or are at risk of dropping out of high school.

Roll call on Senate Bill No. 295:

YEAS—40.

NAYS—None.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 295 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 314.

Bill read third time.

Remarks by Assemblywoman Munk.

ASSEMBLYWOMAN MUNK:

Senate Bill 314 establishes the State Financial Literacy Advisory Council and the State Seal of Financial Literacy for pupils who graduate from a public high school. The bill requires Nevada's Department of Education to establish a Financial Literacy Month and conduct certain activities to the extent that funding is available. Senate Bill 314 also requires the governing body of each regional professional development training program to provide, to the extent that funding is available, training and professional development for teachers who obtain an endorsement to teach courses in financial literacy.

Roll call on Senate Bill No. 314:

YEAS—40.

NAYS—None.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 314 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 321.

Bill read third time.

Roll call on Senate Bill No. 321:

YEAS—29.

NAYS—Edwards, Ellison, Hafen, Hansen, Hardy, Kramer, Krasner, Leavitt, Roberts, Titus, Wheeler—11.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 321 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 376.

Bill read third time.

Remarks by Assemblywoman Hardy.

ASSEMBLYWOMAN HARDY:

Senate Bill 376 requires the Nevada Institute on Teaching and Educator Preparation to give priority to Nevada students for recruitment efforts, identify opportunities to place students who have completed the program in Nevada public schools, identify a target number of students to recruit each year, and establish requirements relating to the mentoring of current program students.

Roll call on Senate Bill No. 376:

YEAS—40.

NAYS—None.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 376 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 497.

Bill read third time.

Roll call on Senate Bill No. 497:

YEAS—40.

NAYS—None.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 497 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 532.

Bill read third time.

Roll call on Senate Bill No. 532:

YEAS—40.

NAYS—None.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 532 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 536.

Bill read third time.

Roll call on Senate Bill No. 536:

YEAS—35.

NAYS—Edwards, Ellison, Krasner, Titus, Wheeler—5.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 536 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 539.

Bill read third time.

Remarks by Assemblyman Roberts.

ASSEMBLYMAN ROBERTS:

Senate Bill 539 increases the annual fee assessed to the Taxicab Authority for persons who hold a certificate of public convenience from \$100 to \$300 per taxicab.

Roll call on Senate Bill No. 539:

YEAS—34.

NAYS—Edwards, Hafen, Hansen, Krasner, Titus, Wheeler—6.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 539 having received a two-thirds majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 111.

Bill read third time.

Roll call on Assembly Bill No. 111:

YEAS—40.

NAYS—None.

EXCUSED—Hambrick.

VACANT—1.

Assembly Bill No. 111 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 326.

Bill read third time.

Roll call on Assembly Bill No. 326:

YEAS—36.

NAYS—Daly, Edwards, Ellison, Titus—4.

EXCUSED—Hambrick.

VACANT—1.

Assembly Bill No. 326 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 445.

Bill read third time.

Roll call on Assembly Bill No. 445:

YEAS—34.

NAYS—Edwards, Ellison, Hansen, Krasner, Titus, Wheeler—6.

EXCUSED—Hambrick.

VACANT—1.

Assembly Bill No. 445 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 516.

Bill read third time.

Roll call on Assembly Bill No. 516:

YEAS—38.

NAYS—Edwards, Flores—2.

EXCUSED—Hambrick.

VACANT—1.

Assembly Bill No. 516 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 50.

Bill read third time.

Roll call on Senate Bill No. 50:

YEAS—39.

NAYS—Flores.

EXCUSED—Hambrick.

VACANT—1.

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

Bill ordered transmitted to the Senate.

#### UNFINISHED BUSINESS

#### SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Senate Bills Nos. 10, 12, 14, 37, 53, 71, 77, 86, 121, 125, 140, 163, 164, 175, 181, 186, 197, 204, 207, 230, 236, 242, 243, 250, 258, 279, 302, 311, 312, 316, 342, 345, 347, 355, 362, 365, 371, 387, 390, 397, 410, 417, 424, 430, 441, 450, 452, 453, 457, 469, 470, 475, 477, 502, 521, 522, 523, 524, and 538.

#### VETOED BILLS AND SPECIAL ORDERS OF THE DAY

Vetoed Assembly Bill No. 186 of the 80th Session.

Governor's message stating his objections read.

Bill read.

OFFICE OF THE GOVERNOR

May 30, 2019

THE HONORABLE JASON FRIERSON, SPEAKER OF THE NEVADA STATE ASSEMBLY, Nevada  
Legislature, 401 South Carson Street, Carson City, Nevada 89701

RE: Assembly Bill 186 of the 80th Legislative Session

DEAR SPEAKER FRIERSON:

I am forwarding to you, for filing within the time limit set forth in the Nevada Constitution and without my approval, Assembly Bill 186 (AB 186), which is titled as follows:

AN ACT relating to elections; enacting the Agreement Among the States to Elect the President by National Popular Vote; and providing other matters properly relating thereto.

AB 186 would enact an Agreement Among the States to Elect the President by National Popular Vote ("The Agreement"). The Agreement would become effective upon approval by states possessing cumulatively at least 270 electoral votes.

Once effective, The Agreement would amend NRS 298.045 to require that any nominee for presidential elector or alternate from the State could not serve as such unless the nominee for presidential elector or alternate signs a pledge affirming that the individual would vote only for the candidates for President and Vice President who win the national popular vote. The result of The Agreement, once effective, is that Nevada presidential electors would operate in combination with the electors of other signatory states to cast electoral votes only for candidates who have won the national popular vote. Pursuant to the terms of The Agreement, if candidates for President and Vice President were to win the national popular vote, but lose the popular vote in Nevada, the State's electors would be bound to disregard the expressed will of the State's electorate and to cast electoral votes in coordination with other signatory states in support of candidates who have won the national popular vote. As Governor of Nevada, it is my view that this arrangement is not in the State's best interests.

While reasonable people may disagree as to whether the national popular vote should dictate the ultimate winners of Presidential and Vice Presidential electoral contests, this is a notion that does not reflect the delicately balanced system of government that issued from the larger debate at the Constitutional Convention of 1787 between supporters of the Virginia Plan and those of the New Jersey Plan, in which the interests of small states were pitted against the interests of large states. The result was a compromise government that tempered the proposal outlined by James Madison's Virginia Plan, favoring large states by granting vast powers to a new federal government, with the proposal forwarded by New Jersey delegate William Paterson, favoring small states by allowing each state to have one vote in Congress, regardless of the state's population (the New Jersey Plan).

The Agreement, which, when enacted, would require a signatory small state's electoral delegates to vote in support of the candidates for President and Vice President who win the national popular vote, could leave a sparsely populated Western state like Nevada with a greatly diminished voice in the outcome of national electoral contests.

For these reasons, and in the best interests of the Great State of Nevada, I veto this bill and return it without my signature or approval.

Sincerely,  
GOVERNOR STEVE SISOLAK  
*State of Nevada*

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 186 of the 80th Session be placed on the Chief Clerk's desk.

Motion carried.

## UNFINISHED BUSINESS

## CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 140.

The following Senate amendment was read:

Amendment No. 703.

SUMMARY—Prohibits discrimination against certain persons ~~with a physical disability~~ in certain proceedings relating to children. (BDR 11-172)

AN ACT relating to child welfare; prohibiting discrimination against persons who are deaf, legally blind or otherwise physically disabled or who are the holders of a valid registry identification card for the use of medical marijuana in certain proceedings relating to children; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law prohibits discrimination on the basis of disability in public accommodation, housing and employment. (NRS 118.100, 613.330, 651.070, 651.075) **Sections 1, 2, 4, 5 and 10-12** of this bill prohibit a court from discriminating against a person in a proceeding concerning child custody or visitation, adoption, guardianship or child protection solely because the person seeking custody or visitation, adoption, guardianship or child protection **: (1) is deaf, is legally blind or has another physical disability ~~;~~ ; or (2) is the holder of a valid registry identification card for the use of medical marijuana.**

**Section 3** of this bill similarly prohibits an agency which provides child welfare services or a child placing agency from determining that a prospective adoptive home is unsuitable for placement or detrimental to the interest of the child solely because the prospective adoptive parent or parents **: (1) are deaf, are legally blind or have another physical disability ~~;~~ ; or (2) are the holders of a valid registry identification card for the use of medical marijuana.**

Existing law prohibits an agency which provides child welfare services from taking any action to remove a child from custody of the person responsible for the child's welfare if the agency determines there is no reasonable cause to believe the child is in need of protection. (NRS 432B.370) Existing law also authorizes a court that finds a child to be in need of protection to: (1) allow the child to remain in the custody of the parent or guardian of the child under such conditions as the court may prescribe; or (2) place the child in the custody of another person or certain agencies or institutions authorized to care for children. (NRS 432B.550) **Section 10** of this bill provides that a child is not in need of protection solely because a person responsible for the welfare of the child **: (1) is deaf, is legally blind or has another physical disability ~~;~~ ; or (2) is the holder of a valid registry identification card for the use of medical marijuana.**

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

**Section 1.** Chapter 125C of NRS is hereby amended by adding thereto a new section to read as follows:

**1. A court shall not deny custody or visitation rights to a person solely because the person ~~is~~:**

**(a) Is deaf, is blind or has another physical disability ~~is~~; or**

**(b) Is the holder of a valid registry identification card.**

**2. As used in this section ~~is~~ <sup>“blind”</sup>:**

**(a) “Blind” has the meaning ascribed to it in NRS 426.082.**

**(b) “Holder of a valid registry identification card” means a person who holds a valid registry identification card as defined in NRS 453A.140 that identifies the person as:**

**(1) Exempt from state prosecution for engaging in the medical use of marijuana; or**

**(2) A designated primary caregiver as defined in NRS 453A.080.**

**Sec. 2.** NRS 127.150 is hereby amended to read as follows:

127.150 1. If the court finds that the best interests of the child warrant the granting of the petition, an order or decree of adoption must be made and filed, ordering that henceforth the child is the child of the petitioners. When determining whether the best interests of the child warrant the granting of a petition that is filed by a foster parent, the court shall give strong consideration to the emotional bond between the child and the foster parent. A copy of the order or decree must be sent to the nearest office of the agency which provides child welfare services by the petitioners within 7 days after the order or decree is issued. In the decree the court may change the name of the child, if desired.

2. Except as otherwise provided in this subsection, an order or decree of adoption may not be made until after the child has lived for 6 months in the home of the petitioners. This subsection does not apply if one of the petitioners is the stepparent of the child or is related to the child within the third degree of consanguinity.

3. If the court is not satisfied that the proposed adoption is in the best interests of the child, the court shall deny the petition and may order the child returned to the custody of the person or agency legally vested with custody. **The court shall not deny a petition solely because the petitioner ~~is~~:**

**(a) Is deaf, is blind or has another physical disability ~~is~~. ~~As used in this subsection, “blind” has the meaning ascribed to it in NRS 426.082.~~; or**

**(b) Is the holder of a valid registry identification card.**

4. After a petition for adoption has been granted, there is a presumption that remaining in the home of the adopting parent is in the child’s best interest.

**5. As used in this section:**

**(a) “Blind” has the meaning ascribed to it in NRS 426.082.**

**(b) “Holder of a valid registry identification card” means a person who holds a valid registry identification card as defined in NRS 453A.140 that identifies the person as:**

**(1) Exempt from state prosecution for engaging in the medical use of marijuana; or**

**(2) A designated primary caregiver as defined in NRS 453A.080.**

**Sec. 3.** NRS 127.2817 is hereby amended to read as follows:

127.2817 1. The Division, in consultation with each agency which provides child welfare services, shall adopt regulations setting forth the criteria to be used by an agency which provides child welfare services or a child-placing agency for determining whether a prospective adoptive home is suitable or unsuitable for the placement of a child for adoption.

2. Upon the completion of an investigation conducted by an agency which provides child welfare services or a child-placing agency pursuant to NRS 127.120 or 127.2805, the agency which provides child welfare services or child-placing agency shall inform the prospective adoptive parent or parents of the results of the investigation. If, pursuant to the investigation, a determination is made that a prospective adoptive home is unsuitable for placement or detrimental to the interest of the child, the agency which provides child welfare services or child-placing agency shall provide the prospective adoptive parent or parents with an opportunity to review and respond to the investigation with the agency which provides child welfare services or child-placing agency before the issuance of the results of the investigation. Except as otherwise provided in NRS 239.0115, the identity of those persons who are interviewed or submit information concerning the investigation must remain confidential.

3. *An agency which provides child welfare services or a child placing agency shall not determine that a prospective adoptive home is unsuitable for placement or detrimental to the interest of the child solely because the prospective adoptive parent or parents ~~are~~ :*

*(a) Are deaf, are blind or have another physical disability ~~is~~ ; or*

*(b) Are the holders of a valid registry identification card.*

4. *As used in this ~~subsection, “blind”~~ section:*

*(a) “Blind” has the meaning ascribed to it in NRS 426.082.*

*(b) “Holder of a valid registry identification card” means a person who holds a valid registry identification card as defined in NRS 453A.140 that identifies the person as:*

*(1) Exempt from state prosecution for engaging in the medical use of marijuana; or*

*(2) A designated primary caregiver as defined in NRS 453A.080.*

**Sec. 4.** NRS 159A.054 is hereby amended to read as follows:

159A.054 1. If the court finds that the proposed protected minor is not in need of a guardian, the court shall dismiss the petition.

2. If the court finds that appointment of a guardian is required, the court shall appoint a guardian of the proposed protected minor’s person, estate, or person and estate.

3. *The court shall not find that a proposed protected minor is in need of a guardian solely because the person currently responsible for the proposed protected minor ~~is~~ :*

*(a) Is deaf, is blind or has another physical disability ~~is~~ ; or*

(b) Is the holder of a valid registry identification card.

4. As used in this ~~subsection, "blind"~~ section:

(a) "Blind" has the meaning ascribed to it in NRS 426.082.

(b) "Holder of a valid registry identification card" means a person who holds a valid registry identification card as defined in NRS 453A.140 that identifies the person as:

(1) Exempt from state prosecution for engaging in the medical use of marijuana; or

(2) A designated primary caregiver as defined in NRS 453A.080.

**Sec. 5.** NRS 159A.061 is hereby amended to read as follows:

159A.061 1. The parents of a proposed protected minor, or either parent, if qualified and suitable, are preferred over all others for appointment as guardian for the person or estate or person and estate of the proposed protected minor. The appointment of a parent as guardian for the person or estate of a proposed protected minor must not conflict with a valid order for custody of the proposed protected minor.

2. Except as otherwise provided in subsection 4, if a parent of a proposed protected minor files a petition seeking appointment as guardian for the proposed protected minor, the parent is presumed to be suitable to serve as guardian for the proposed protected minor.

3. In determining whether the parents of a proposed protected minor, or either parent, or any other person who seeks appointment as guardian for the proposed protected minor is qualified and suitable, the court shall consider, if applicable and without limitation:

(a) Which parent has physical custody of the proposed protected minor;

(b) The ability of the parents, parent or other person to provide for the basic needs of the proposed protected minor, including, without limitation, food, shelter, clothing and medical care, taking into consideration any special needs of the proposed protected minor;

(c) Whether the parents, parent or other person has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of marijuana in accordance with the provisions of chapter 453A of NRS;

(d) Whether the parents, parent or other person has been convicted of a crime of moral turpitude, a crime involving domestic violence or a crime involving the abuse, neglect, exploitation, isolation or abandonment of a child, his or her spouse, his or her parent or any other adult;

(e) Whether the parents, parent or other person has been convicted in this State or any other jurisdiction of a felony; and

(f) Whether the parents, parent or other person has engaged in one or more acts of domestic violence against the proposed protected minor, a parent of the proposed protected minor or any other person who resides with the proposed protected minor.

4. A parent of a proposed protected minor is presumed to be unsuitable to care for the proposed protected minor if:

(a) The parent is unable to provide for any or all of the basic needs of the proposed protected minor, including, without limitation:

- (1) Food;
- (2) Shelter;
- (3) Clothing;
- (4) Medical care; and
- (5) Education;

(b) Because of action or inaction, the parent poses a significant safety risk of either physical or emotional danger to the proposed protected minor; or

(c) The proposed protected minor has not been in the care, custody and control of the parent for the 6 months immediately preceding the filing of the petition. The presumption created by this paragraph is a rebuttable presumption.

5. Subject to the preference set forth in subsection 1 and except as otherwise provided in subsection 7, the court shall appoint as guardian the qualified person who is most suitable and is willing to serve.

6. In determining which qualified person is most suitable, the court shall, in addition to considering any applicable factors set forth in subsections 2, 3 and 4, give consideration, among other factors, to:

(a) Any nomination of a guardian for the proposed protected minor contained in a will or other written instrument executed by a parent of the proposed protected minor.

(b) Any request made by the proposed protected minor, if he or she is 14 years of age or older, for the appointment of a person as guardian for the proposed protected minor.

(c) The relationship by blood or adoption of the proposed guardian to the proposed protected minor. In considering preferences of appointment, the court may consider relatives of the half blood equally with those of the whole blood. The court may consider relatives in the following order of preference:

- (1) Parent.
- (2) Adult sibling.
- (3) Grandparent.
- (4) Uncle or aunt.

(d) Any recommendation made by a master of the court or special master pursuant to NRS 159A.0615.

(e) Any recommendation made by:

(1) An agency which provides child welfare services, an agency which provides child protective services or a similar agency; or

(2) A guardian ad litem or court appointed special advocate who represents the proposed protected minor.

(f) Any request for the appointment of any other interested person that the court deems appropriate.

7. The court may award temporary guardianship pursuant to this section, supported by findings of suitability, pending a trial or evidentiary hearing if that appointment is supported by findings.

8. Notwithstanding the presumption set forth in subsection 4, in the event of competing petitions for the appointment of guardianship of a proposed protected minor, any finding of unsuitability of a parent of the proposed protected minor must be found by clear and convincing evidence after a hearing on the merits or an evidentiary hearing.

9. In determining whether to appoint a guardian of the person or estate of a proposed protected minor and who should be appointed, the court must always act in the best interests of the proposed protected minor.

10. ***A court shall not refuse to appoint a person as a guardian of the person or estate of a proposed protected minor solely because the person ~~is~~***

***:***

***(a) Is deaf, is blind or has another physical disability ~~[As used in this subsection, "blind" has the meaning ascribed to it in NRS 426.082.]~~; or***

***(b) Is the holder of a valid registry identification card.***

***11. As used in this section ~~[agency]~~:***

***(a) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.***

***(b) "Blind" has the meaning ascribed to it in NRS 426.082.***

***(c) "Holder of a valid registry identification card" means a person who holds a valid registry identification card as defined in NRS 453A.140 that identifies the person as:***

***(1) Exempt from state prosecution for engaging in the medical use of marijuana; or***

***(2) A designated primary caregiver as defined in NRS 453A.080.***

**Sec. 6.** (Deleted by amendment.)

**Sec. 7.** (Deleted by amendment.)

**Sec. 8.** (Deleted by amendment.)

**Sec. 9.** (Deleted by amendment.)

**Sec. 10.** NRS 432B.330 is hereby amended to read as follows:

432B.330 1. A child is in need of protection if:

(a) The child has been abandoned by a person responsible for the welfare of the child;

(b) The child has been subjected to abuse or neglect by a person responsible for the welfare of the child;

(c) The child is in the care of a person responsible for the welfare of the child and another child has:

(1) Died as a result of abuse or neglect by that person; or

(2) Been subjected to abuse by that person, unless the person has successfully completed a plan for services that was recommended by an agency which provides child welfare services pursuant to NRS 432B.340 to address the abuse of the other child;

(d) The child has been placed for care or adoption in violation of law; or

(e) The child has been delivered to a provider of emergency services pursuant to NRS 432B.630.

2. A child may be in need of protection if the person responsible for the welfare of the child:

(a) Is unable to discharge his or her responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity;

(b) Fails, although the person is financially able to do so or has been offered financial or other means to do so, to provide for the following needs of the child:

- (1) Food, clothing or shelter necessary for the child's health or safety;
- (2) Education as required by law; or
- (3) Adequate medical care;

(c) Has been responsible for the neglect of a child who has resided with that person; or

(d) Has been responsible for the abuse of another child regardless of whether that person has successfully completed a plan for services that was recommended by an agency which provides child welfare services pursuant to NRS 432B.340 to address the abuse of the other child.

3. A child may be in need of protection if the death of a parent of the child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to NRS 33.018.

4. A child may be in need of protection if the child is identified as being affected by a fetal alcohol spectrum disorder or prenatal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure.

5. *A child is not in need of protection solely because the person responsible for the welfare of the child ~~is~~:*

*(a) Is deaf, is blind, as defined in NRS 426.082, or has another physical disability ~~is~~; or*

*(b) Is the holder of a valid registry identification card. As used in this paragraph, "holder of a valid registry identification card" means a person who holds a valid registry identification card as defined in NRS 453A.140 that identifies the person as:*

*(1) Exempt from state prosecution for engaging in the medical use of marijuana; or*

*(2) A designated primary caregiver as defined in NRS 453A.080.*

6. As used in this section:

(a) "Abuse" means:

- (1) Physical or mental injury of a nonaccidental nature; or
- (2) Sexual abuse or sexual exploitation,

↳ of a child caused or allowed by a person responsible for the welfare of the child under circumstances which indicate that the child's health or welfare is harmed or threatened with harm. The term does not include the actions described in subsection 2 of NRS 432B.020.

(b) "Allow" means to do nothing to prevent or stop the abuse or neglect of a child in circumstances where the person knows or has reason to know that a child is abused or neglected.

(c) "Neglect" means abandonment or failure to:

(1) Provide for the needs of a child set forth in paragraph (b) of subsection 2; or

(2) Provide proper care, control and supervision of a child as necessary for the well-being of the child because of the faults or habits of the person responsible for the welfare of the child or the neglect or refusal of the person to provide them when able to do so.

↪ The term does not include the actions described in subsection 2 of NRS 432B.020.

**Sec. 11.** NRS 432B.480 is hereby amended to read as follows:

432B.480 1. At each hearing conducted pursuant to NRS 432B.470:

(a) At the commencement of the hearing, the court shall advise the parties of their right to be represented by an attorney and of their right to present evidence.

(b) The court shall determine whether there is reasonable cause to believe that it would be:

(1) Contrary to the welfare of the child for the child to reside at his or her home; or

(2) In the best interests of the child to place the child outside of his or her home.

↪ The court shall prepare an explicit statement of the facts upon which each of its determinations is based. ***The court shall not make an affirmative finding regarding either subparagraph (1) or (2) solely because the person responsible for the welfare of the child is deaf, is blind, as defined in NRS 426.082, or has another physical disability ~~or~~ or is the holder of a valid registry identification card.*** If the court makes an affirmative finding regarding either subparagraph (1) or (2), the court shall issue an order keeping the child in protective custody pending a disposition by the court.

(c) The court shall determine whether the child has been placed in a home or facility that complies with the requirements of NRS 432B.3905. If the placement does not comply with the requirements of NRS 432B.3905, the court shall establish a plan with the agency which provides child welfare services for the prompt transfer of the child into a home or facility that complies with the requirements of NRS 432B.3905.

2. If the court issues an order keeping the child in protective custody pending a disposition by the court and it is in the best interests of the child, the court may:

(a) Place the child in the temporary custody of a grandparent, great-grandparent or other person related within the fifth degree of consanguinity to the child who the court finds has established a meaningful relationship with the child, with or without supervision upon such conditions as the court prescribes, regardless of whether the relative resides within this State; or

(b) Grant the grandparent, great-grandparent or other person related within the fifth degree of consanguinity to the child a reasonable right to visit the child while the child is in protective custody.

3. If the court finds that the best interests of the child do not require that the child remain in protective custody, the court shall order the immediate release of the child.

4. If a child is placed with any person who resides outside this State, the placement must be in accordance with NRS 127.330.

**5. As used in this section, “holder of a valid registry identification card” means a person who holds a valid registry identification card as defined in NRS 453A.140 that identifies the person as:**

**(a) Exempt from state prosecution for engaging in the medical use of marijuana; or**

**(b) A designated primary caregiver as defined in NRS 453A.080.**

**Sec. 12.** NRS 432B.550 is hereby amended to read as follows:

432B.550 1. If the court finds that a child is in need of protection, it may, by its order, after receipt and review of the report from the agency which provides child welfare services:

(a) Permit the child to remain in the temporary or permanent custody of the parents of the child or a guardian with or without supervision by the court or a person or agency designated by the court, and with or without retaining jurisdiction of the case, upon such conditions as the court may prescribe;

(b) Place the child in the temporary or permanent custody of a relative, a fictive kin or other person the court finds suitable to receive and care for the child with or without supervision, and with or without retaining jurisdiction of the case, upon such conditions as the court may prescribe; or

(c) Place the child in the temporary custody of a public agency or institution authorized to care for children, the local juvenile probation department, the local department of juvenile services or a private agency or institution licensed by the Department of Health and Human Services or a county whose population is 100,000 or more to care for such a child.

↪ In carrying out this subsection, the court may, in its sole discretion and in compliance with the requirements of chapter 159A of NRS, consider an application for the guardianship of the child. If the court grants such an application, it may retain jurisdiction of the case or transfer the case to another court of competent jurisdiction.

**2. The court shall not deny placement of a child in the temporary or permanent custody of a person pursuant to subsection 1 solely because the person ~~is~~ :**

**(a) Is deaf, is blind or has another physical disability [As used in this subsection, “blind” has the meaning ascribed to it in NRS 426.082.] ; or**

**(b) Is the holder of a valid registry identification card.**

3. If, pursuant to subsection 1, a child is placed other than with a parent:

(a) The parent retains the right to consent to adoption, to determine the child’s religious affiliation and to reasonable visitation, unless restricted by the court. If the custodian of the child interferes with these rights, the parent may petition the court for enforcement of the rights of the parent.

(b) The court shall set forth good cause why the child was placed other than with a parent.

~~4-3~~ 4. If, pursuant to subsection 1, the child is to be placed with a relative or fictive kin, the court may consider, among other factors, whether the child has resided with a particular relative or fictive kin for 3 years or more before the incident which brought the child to the court's attention.

~~4-4~~ 5. Except as otherwise provided in this subsection, a copy of the report prepared for the court by the agency which provides child welfare services must be sent to the custodian and the parent or legal guardian. If the child was delivered to a provider of emergency services pursuant to NRS 432B.630:

(a) The parent who delivered the child to the provider shall be deemed to have waived his or her right to a copy of the report; and

(b) A copy of the report must be sent to the parent who did not deliver the child to the provider, if the location of such parent is known.

~~4-5~~ 6. In determining the placement of a child pursuant to this section, if the child is not permitted to remain in the custody of the parents of the child or guardian:

(a) It must be presumed to be in the best interests of the child to be placed together with the siblings of the child.

(b) Preference must be given to placing the child in the following order:

(1) With any person related within the fifth degree of consanguinity to the child or a fictive kin, and who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative or fictive kin resides within this State.

(2) In a foster home that is licensed pursuant to chapter 424 of NRS.

~~4-6~~ 7. Any search for a relative with whom to place a child pursuant to this section must be completed within 1 year after the initial placement of the child outside of the home of the child. If a child is placed with any person who resides outside of this State, the placement must be in accordance with NRS 127.330.

~~4-7~~ 8. Within 60 days after the removal of a child from the home of the child, the court shall:

(a) Determine whether:

(1) The agency which provides child welfare services has made the reasonable efforts required by paragraph (a) of subsection 1 of NRS 432B.393; or

(2) No such efforts are required in the particular case; and

(b) Prepare an explicit statement of the facts upon which its determination is based.

~~4-8~~ 9. As used in this section, ~~["fictive"]~~:

(a) "Blind" has the meaning ascribed to it in NRS 426.082.

(b) "Fictive kin" means a person who is not related by blood to a child but who has a significant emotional and positive relationship with the child.

(c) “Holder of a valid registry identification card” means a person who holds a valid registry identification card as defined in NRS 453A.140 that identifies the person as:

(1) Exempt from state prosecution for engaging in the medical use of marijuana; or

(2) A designated primary caregiver as defined in NRS 453A.080.

Sec. 13. This act becomes effective on July 1, 2019.

Assemblyman Yeager moved that the Assembly concur in the Senate Amendment No. 703 to Assembly Bill No. 140.

Remarks by Assemblyman Yeager.

ASSEMBLYMAN YEAGER:

The amendment prohibits a court from discriminating against a person in certain proceedings concerning children because the person is a holder of a valid registry identification card for the use of medical marijuana.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 2:28 p.m.

#### ASSEMBLY IN SESSION

At 8:32 p.m.

Mr. Speaker presiding.

Quorum present.

#### REPORTS OF COMMITTEES

*Mr. Speaker:*

Your Committee on Health and Human Services, to which were referred Senate Bills Nos. 130, 346, 363, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

LESLEY E. COHEN, *Chair*

*Mr. Speaker:*

Your Committee on Legislative Operations and Elections, to which were referred Senate Concurrent Resolutions Nos. 1, 6, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

SANDRA JAUREGUI, *Chair*

*Mr. Speaker:*

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 155, 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 Ways and Means, to which was referred Senate Bill No. 549, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MAGGIE CARLTON, *Chair*

## MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 30, 2019

*To the Honorable the Assembly:*

I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 84, 111, 153, 324, 332, 458, 505.

SHERRY RODRIGUEZ  
*Assistant Secretary of the Senate*

## MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 1.

Assemblywoman Jauregui moved the adoption of the resolution.

Remarks by Assemblywoman Jauregui.

ASSEMBLYWOMAN JAUREGUI:

Senate Concurrent Resolution 1 directs the Legislative Committee on Energy to conduct an interim study concerning the development of renewable energy.

Resolution adopted.

Senate Concurrent Resolution No. 6.

Assemblywoman Jauregui moved the adoption of the resolution.

Remarks by Assemblywoman Jauregui.

ASSEMBLYWOMAN JAUREGUI:

Senate Concurrent Resolution 6 directs the Sunset Subcommittee of the Legislative Commission to conduct an interim study concerning professional and occupational licensing boards.

Resolution adopted.

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 155 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

## INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 542—AN ACT relating to public employees; establishing the maximum allowed salaries for certain state employees; making appropriations from the State General Fund and State Highway Fund for increases in the salaries of certain employees of the State; and providing other matters properly relating thereto.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 543—AN ACT relating to state financial administration; making appropriations from the State General Fund and the State Highway Fund for the support of the civil government of the State of Nevada for the 2019-2021 biennium; providing for the use of the money so appropriated;

making various other changes relating to the financial administration of the State; and providing other matters properly relating thereto.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 84.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 111.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 153.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 324.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 332.

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

Motion carried.

Senate Bill No. 458.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 505.

Assemblywoman Benitez-Thompson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 155.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 1045.

AN ACT relating to education; reducing the minimum number of credit hours required per semester for eligibility for a grant awarded under the Silver State Opportunity Grant Program; creating an exception to the credit hour requirement; ~~providing that grant money received by colleges pursuant to the Program does not revert;~~ **prescribing the order of priority in which grants under the Program must be awarded;** and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law creates the Silver State Opportunity Grant Program. Under the Program, the Board of Regents of the University of Nevada is required to award grants to eligible students to pay for a portion of the cost of education at a community college or state college that is part of the Nevada System of Higher Education. One of the requirements for eligibility for such a grant is that a student be enrolled, or accepted to be enrolled, during a semester in at least 15 credit hours at a community college or state college that is part of the Nevada System of Higher Education. (NRS 396.952) **Section 1** of this bill reduces the minimum number of such required credit hours to 12 credit hours and provides that a student who is enrolled in fewer than 12 credit hours is still eligible for a grant if the student is enrolled in his or her final semester of study. ~~Section 2 of this bill provides that money provided to a community college or state college for a grant awarded on behalf of a student under the Silver State Opportunity Grant Program does not revert and any remaining amount must be carried forward and used for grants for eligible students in a subsequent semester.~~ **Section 3 of this bill makes conforming changes.**

**Section 2 of this bill prescribes the order of priority in which grants must be awarded, which is based on the number of credit hours in which the student is enrolled, or accepted to be enrolled, and whether the student is enrolled, or accepted to be enrolled, in the final semester of a program of study.**

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

**Section 1.** NRS 396.952 is hereby amended to read as follows:

396.952 1. The Silver State Opportunity Grant Program is hereby created for the purpose of awarding grants to eligible students to pay for a portion of the cost of education at a community college or state college within the System.

2. The Board of Regents shall administer the Program.

3. In administering the Program, the Board of Regents shall for each semester, subject to the limits of money available for this purpose, award a grant to each eligible student to pay for a portion of the cost of education at a community college or state college within the System.

4. To be eligible for a grant awarded under the Program, a student must:

(a) ~~Be~~ *Except as otherwise provided in this section, be* enrolled, or accepted to be enrolled, during a semester in at least ~~15~~ **12** credit hours at a community college or state college within the System;

(b) Be enrolled in a program of study leading to a recognized degree or certificate;

(c) Demonstrate proficiency in English and mathematics sufficient for placement into college-level English and mathematics courses pursuant to regulations adopted by the Board of Regents for such placement;

(d) Be a bona fide resident of the State of Nevada for the purposes of determining pursuant to NRS 396.540 whether the student is assessed a tuition charge; and

(e) Complete the Free Application for Federal Student Aid provided for by 20 U.S.C. § 1090.

**5. A student who is enrolled, or accepted to be enrolled, in the final semester of his or her program of study in less than 12 credit hours at a community college or state college within the System is eligible for a grant awarded under the Program.**

**Sec. 2.** NRS 396.954 is hereby amended to read as follows:

396.954 1. For each eligible student, the Board of Regents or a designee thereof shall:

(a) Calculate the maximum amount of the grant which the student is eligible to receive. The maximum amount of such a grant must not exceed the amount equal to the cost of education of the student minus the amounts determined for the student contribution, family contribution and federal contribution to the cost of education of the student.

(b) Determine the actual amount of the grant which will be awarded to each student, which amount must not exceed the maximum amount calculated pursuant to paragraph (a), but which may be in a lesser amount if the Board of Regents or a designee thereof, as applicable, determines that the amount of money available for all grants for any semester is insufficient to award to all eligible students in a category prescribed in subsection 2 the maximum amount of the grant which each student is eligible to receive.

~~[(c) Award]~~

**2. The Board of Regents or a designee thereof shall award to ~~each eligible student~~ eligible students a grant in the amount determined pursuant to paragraph (b).**

~~2. Any money received by a community college or state college within the System for a grant awarded under the Program on behalf of an eligible student at the community college or state college does not revert and any remaining amount must be carried forward and used for grants awarded under the Program for eligible students in a subsequent semester.] of subsection 1 in the following order of priority:~~

(a) First, to eligible students who are enrolled in at least 15 credit hours at a community college or state college within the System;

*(b) If money is available after awarding grants to all eligible students described in paragraph (a), to remaining eligible students who are enrolled, or accepted to be enrolled, in the final semester of a program of study at a community college or state college within the System; and*

*(c) If money is available after awarding grants to all eligible students described in paragraphs (a) and (b), to remaining eligible students.*

3. Money received from a grant awarded under the Program must be used by a student only to pay for the cost of education of the student at a community college or state college within the System and not for any other purpose.

**Sec. 3.** NRS 396.956 is hereby amended to read as follows:

396.956 1. The Board of Regents:

(a) Shall adopt regulations prescribing the procedures and standards for determining the eligibility of a student for a grant from the Program.

(b) Shall adopt regulations prescribing the methodology by which the Board of Regents or a designee thereof will calculate:

(1) The cost of education of a student at each community college and state college within the System, which must be consistent with the provisions of 20 U.S.C. § 108711.

(2) For each student, the amounts of the student contribution, family contribution and federal contribution to the cost of education of the student.

(3) The maximum amount of the grant for which a student is eligible.

(c) Shall adopt regulations prescribing the process by which each student may meet the credit-hour requirement described in ~~paragraph (a) of subsection 4 of~~ NRS 396.952 for eligibility for a grant awarded under the Program.

(d) May adopt any other regulations necessary to carry out the Program.

2. The regulations prescribed pursuant to this section must provide that:

(a) In determining the student contribution to the cost of education, the student contribution must not exceed the amount that the Board of Regents determines the student reasonably could be expected to earn from employment during the time the student is enrolled at a community college or state college within the System, including, without limitation, during breaks between semesters. This paragraph and any regulations adopted pursuant to this section must not be construed to require a student to seek or obtain employment as a condition of eligibility for a grant under the Program.

(b) Determination of the family contribution to the cost of education must be based on the family resources reported in the Free Application for Federal Student Aid submitted by the student.

(c) Determination of the federal contribution to the cost of education must be equal to the total amount that the student and his or her family are expected to receive from the Federal Government as grants.

**Sec. 4.** This act becomes effective on July 1, 2019.

Assemblywoman Carlton moved the adoption of the amendment.

Remarks by Assemblywoman Carlton.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 130.

Bill read third time.

Remarks by Assemblywoman Munk.

ASSEMBLYWOMAN MUNK:

Senate Bill 130 provides for the licensure and regulation of individuals engaged in radiation therapy and radiological imaging. The bill exempts certain health care professionals as well as individuals who are already certified to operate a radiation machine for mammography. It requires the State Board of Health of the Division of Public and Behavioral Health to adopt regulations that, among other things, establish fees for the issuance and renewal of a license or limited license to engage in radiation therapy and radiological imaging, define the scope of practice of radiologist assistants, and prescribe requirements for continuing education.

Roll call on Senate Bill No. 130:

YEAS—40.

NAYS—None.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 130 having received a two-thirds majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 346.

Bill read third time.

Roll call on Senate Bill No. 346:

YEAS—34.

NAYS—Edwards, Ellison, Hafen, Hansen, Kramer, Titus—6.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 346 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 363.

Bill read third time.

Remarks by Assemblywoman Cohen.

ASSEMBLYWOMAN COHEN:

Senate Bill 363 requires the Legislative Committee on Health Care during the 2019-2020 interim to study stem cell centers in different states and countries, the services provided by stem cell centers and the value such centers bring to the community, and the best placement and type of organization for stem cell centers in Nevada.

Roll call on Senate Bill No. 363:

YEAS—40.

NAYS—None.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 363 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 549.

Bill read third time.

Roll call on Senate Bill No. 549:

YEAS—40.

NAYS—None.

EXCUSED—Hambrick.

VACANT—1.

Senate Bill No. 549 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 155.

Bill read third time.

Remarks by Assemblymen Torres, Edwards, McCurdy, Carlton, Titus, and Hansen.

ASSEMBLYWOMAN TORRES:

Assembly Bill 155 prescribes the order of priority in which grants must be awarded based on the number of credit hours in which the student is enrolled.

ASSEMBLYMAN EDWARDS:

This was one of the reforms we put in in 2015. The premise of the reform was that if kids took 15 credit hours per semester they would do better with their graduation rates. In 2017, Nevada System of Higher Education [NSHE] came to the Education Committee and reported that the scholarships made a 100 percent increase in the on-time graduation rates of our college students. This bill undermines that success. This is not going to help the kids. This is going to be detrimental to their ability to graduate on time. The reform was working fantastic. There is no reason to change it and every reason to keep it. I urge you to vote against this so that our kids can graduate on time.

ASSEMBLYMAN MCCURDY:

I rise in support of Assembly Bill 155, as written, for a lot of different reasons. Twelve, twelve, and six was one of the proposals that was initially considered when we had a discussion about how many classes a student can take, what was feasible, what was not. I have to say that when this was initially considered in 2015, I brought up the concern about 15 credits being too much. That one extra class could be just too much. This is so needed and we have so many students who will benefit greatly from it. I would respectfully disagree with my colleague and I would urge everyone here to vote in support of Assembly Bill 155.

ASSEMBLYWOMAN CARLTON:

I rise in support of Assembly Bill 155. The committee had some concerns and we asked some tough questions of the sponsor of this bill. But when we got the response that \$895,000 that was available for other students to get scholarships had been left on the table, we realized that maybe this was the path to take. Why would we leave good scholarship money on the table not to be used? If it had totally been used, that probably would have been a different discussion. I believe this opened the eyes of a number of the members of my committee.

I stand in absolute support of A.B. 155. Every kid that goes to college needs to make sure that last dollar is the dollar they need to complete their education.

ASSEMBLYWOMAN TITUS:

I rise in support of Assembly Bill 155. Initially when this bill first came out, I too had, as my esteemed colleague from the south just stated, some concerns about this bill. Frankly, we really did look at this bill and I appreciate the sponsor for hearing our concerns. She actually improved this bill.

Why would we leave money on the table for students that could go to college? The amendment that we passed earlier tonight actually spelled out that the priority had to go to the original mandate, but if there is money still left, why not help other students? That is our goal, so I urge all my colleagues to support this bill as amended.

ASSEMBLYWOMAN HANSEN:

I rise in support of Assembly Bill 155. As a member of the Education Committee, we really did vet this bill. I am a supporter of the original legislation from 2015. But as legislation moves forward, we sometimes see that there are some tweaks we need to make. A lot of students that are recipients of this scholarship have different needs and schedules. Being the mother of seven college graduates and one almost there, they sometimes need a different approach. Money left on the table, a way to adapt this legislation, still keeping in context the intent of this legislation—I am glad to support this.

Roll call on Assembly Bill No. 155:

YEAS—39.

NAYS—Edwards.

EXCUSED—Hambrick.

VACANT—1.

Assembly Bill No. 155 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

#### UNFINISHED BUSINESS

##### CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 70.

The following Senate amendment was read:

Amendment No. 878.

AN ACT relating to meetings of public bodies; making various changes relating to meetings of public bodies; providing a penalty; and providing other matters properly relating thereto.

#### **Legislative Counsel's Digest:**

The Open Meeting Law requires a public body to ensure that members of the public body and the public present at a meeting can hear or observe and participate in the meeting if any member of the public body is present by means of teleconference or videoconference. (NRS 241.010) **Section 2** of this bill provides instead that if a member of the public body attends a meeting of the public body by means of teleconference or videoconference, the chair of the public body must make reasonable efforts to ensure that members of the public body and the public can hear or observe each member attending by teleconference or videoconference. **Section 4** of this bill makes a conforming change.

**Section 2** authorizes a public body, under certain circumstances, to conduct a public meeting by teleconference or videoconference.

**Section 6.2 of this bill requires the public officers and employees responsible for a public meeting to make reasonable efforts to ensure the facilities for that meeting are large enough to accommodate the anticipated number of attendees.**

**Section 2.5** of this bill provides a public body may delegate authority to the chair or the executive director, or an equivalent position, to make any decision regarding litigation concerning any action or proceeding in which the public body or any member or employee of the public body is a party in an official capacity or participates or intervenes in an official capacity.

Existing law sets forth the circumstances when a public body is required to comply with the Open Meeting Law. Under existing law, a public body may gather to receive information from an attorney employed or retained by the public body regarding certain matters without complying with the Open Meeting Law. (NRS 241.015)

**Section 5** of this bill authorizes, under certain circumstances, a public body to gather to receive training regarding its legal obligations without complying with the Open Meeting Law.

**Section 5** requires, under certain circumstances, a subcommittee or working group of a public body to comply with the provisions of the Open Meeting Law.

The Open Meeting Law requires a public body to make supporting material for a meeting of the public body available to the public upon request. (NRS 241.020) **Section 5** defines the term “supporting material.”

Existing law requires a public body to have a meeting recorded on audiotape or transcribed by a court reporter and provide a copy of the audio recording or transcript to a member of the public upon request at no charge. Existing law also provides this requirement does not prohibit a court reporter from charging a fee to the public body for any services relating to the transcription of a meeting. (NRS 241.035) **Section 7** of this bill clarifies that a court reporter who transcribes a meeting is: (1) not prohibited from charging a fee to the public body for the transcription; and (2) not required to provide a copy of any transcript, minutes or audio recording of a meeting directly to a member of the public at no charge.

Under existing law, the Attorney General is required to investigate and prosecute any violation of the Open Meeting Law. (NRS 241.039) **Section 10** of this bill: (1) requires, with limited exception, the Attorney General to investigate and prosecute a violation of the Open Meeting Law if a complaint is filed not later than 120 days after the alleged violation; and (2) gives the Attorney General discretion to investigate and prosecute a violation of the Open Meeting Law if a complaint is filed more than 120 days after the alleged violation.

**Section 10** further requires: (1) the Attorney General to issue certain findings upon completion of an investigation; and (2) a public body to submit a response to the findings of the Attorney General not later than 30 days after receipt of the Attorney General’s findings.

Existing law makes each member of a public body who attends a meeting where action is taken in violation of the Open Meeting Law with knowledge of the fact that the meeting is in violation guilty of a misdemeanor and subject to a civil penalty of \$500. (NRS 241.040) **Section 12** of this bill provides instead that each member of a public body who: (1) attends a meeting where any violation of the Open Meeting Law occurs; (2) has knowledge of the violation; and (3) participates in the violation, is guilty of a misdemeanor and subject to an administrative fine, the amount of which is graduated for multiple offenses. **Section 12** also creates an exception to these penalties and fines where the member violated the Open Meeting Law based on legal advice provided by an attorney employed or retained by the public body.

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

**Section 1.** Chapter 241 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 2.5 of this act.

**Sec. 2. 1.** *A public body may conduct a meeting by means of teleconference or videoconference if:*

*(a) A quorum is actually or collectively present, whether in person or by means of electronic communication; and*

*(b) There is a physical location designated for the meeting where members of the public are permitted to attend and participate.*

**2.** *If any member of a public body attends a meeting by means of teleconference or videoconference, the chair of the public body, or his or her designee, must make reasonable efforts to ensure that:*

*(a) Members of the public body and members of the public present at the physical location of the meeting can hear or observe each member attending by teleconference or videoconference; and*

*(b) Each member of the public body in attendance can participate in the meeting.*

**Sec. 2.5.** *A public body may delegate authority to the chair or the executive director of the public body, or an equivalent position, to make any decision regarding litigation concerning any action or proceeding in which the public body or any member or employee of the public body is a party in an official capacity or participates or intervenes in an official capacity.*

**Sec. 3.** (Deleted by amendment.)

**Sec. 4.** NRS 241.010 is hereby amended to read as follows:

241.010 ~~1-1~~ In enacting this chapter, the Legislature finds and declares that all public bodies exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

~~1-2. If any member of a public body is present by means of teleconference or videoconference at any meeting of the public body, the public body shall ensure that all the members of the public body and the members of the public~~

~~who are present at the meeting can hear or observe and participate in the meeting.]~~

**Sec. 5.** NRS 241.015 is hereby amended to read as follows:

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

1. "Action" means:

(a) A decision made by a majority of the members present, whether in person or by means of electronic communication, during a meeting of a public body;

(b) A commitment or promise made by a majority of the members present, whether in person or by means of electronic communication, during a meeting of a public body;

(c) If a public body may have a member who is not an elected official, an affirmative vote taken by a majority of the members present, whether in person or by means of electronic communication, during a meeting of the public body; or

(d) If all the members of a public body must be elected officials, an affirmative vote taken by a majority of all the members of the public body.

2. "Deliberate" means collectively to examine, weigh and reflect upon the reasons for or against the action. The term includes, without limitation, the collective discussion or exchange of facts preliminary to the ultimate decision.

3. "Meeting":

(a) Except as otherwise provided in paragraph (b), means:

(1) The gathering of members of a public body at which a quorum is present, whether in person or by means of electronic communication, to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) Any series of gatherings of members of a public body at which:

(I) Less than a quorum is present, whether in person or by means of electronic communication, at any individual gathering;

(II) The members of the public body attending one or more of the gatherings collectively constitute a quorum; and

(III) The series of gatherings was held with the specific intent to avoid the provisions of this chapter.

(b) Does not include a gathering or series of gatherings of members of a public body, as described in paragraph (a), at which a quorum is actually or collectively present, whether in person or by means of electronic communication:

(1) Which occurs at a social function if the members do not deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) To receive information from the attorney employed or retained by the public body regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power and to deliberate toward a decision on the matter, or both.

**(3) To receive training regarding the legal obligations of the public body, including, without limitation, training conducted by an attorney employed or retained by the public body, the Office of the Attorney General or the Commission on Ethics, if at the gathering the members do not deliberate toward a decision or action on any matter over which the public body has supervision, control, jurisdiction or advisory power.**

4. Except as otherwise provided in NRS 241.016, “public body” means:

(a) Any administrative, advisory, executive or legislative body of the State or a local government consisting of at least two persons which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board, commission, committee, subcommittee or other subsidiary thereof and includes a library foundation as defined in NRS 379.0056, an educational foundation as defined in subsection 3 of NRS 388.750 and a university foundation as defined in subsection 3 of NRS 396.405, if the administrative, advisory, executive or legislative body is created by:

(1) The Constitution of this State;

(2) Any statute of this State;

(3) A city charter and any city ordinance which has been filed or recorded as required by the applicable law;

(4) The Nevada Administrative Code;

(5) A resolution or other formal designation by such a body created by a statute of this State or an ordinance of a local government;

(6) An executive order issued by the Governor; or

(7) A resolution or an action by the governing body of a political subdivision of this State;

(b) Any board, commission or committee consisting of at least two persons appointed by:

(1) The Governor or a public officer who is under the direction of the Governor, if the board, commission or committee has at least two members who are not employees of the Executive Department of the State Government;

(2) An entity in the Executive Department of the State Government, ~~consisting of members appointed by the Governor,~~ if the board, commission or committee otherwise meets the definition of a public body pursuant to this subsection; or

(3) A public officer who is under the direction of an agency or other entity in the Executive Department of the State Government, ~~consisting of members appointed by the Governor,~~ if the board, commission or committee has at least two members who are not employed by the public officer or entity; ~~and~~

(c) A limited-purpose association that is created for a rural agricultural residential common-interest community as defined in subsection 6 of NRS 116.1201 ~~††~~; **and**

**(d) A subcommittee or working group consisting of at least two persons who are appointed by a public body described in paragraph (a), (b) or (c) if:**

(1) *A majority of the membership of the subcommittee or working group are members or staff members of the public body that appointed the subcommittee; or*

(2) *The subcommittee or working group is authorized by the public body ~~for working group~~ to make a recommendation to the public body for the public body to take any action.*

5. “Quorum” means a simple majority of the membership of a public body or another proportion established by law.

6. *“Supporting material” means material that is provided to at least a quorum of the members of a public body by a member of or staff to the public body and that the members of the public body would reasonably rely on to deliberate or take action on a matter contained in a published agenda. The term includes, without limitation, written records, audio recordings, video recordings, photographs and digital data.*

7. “Working day” means every day of the week except Saturday, Sunday and any day declared to be a legal holiday pursuant to NRS 236.015.

Sec. 6. (Deleted by amendment.)

**Sec. 6.2. NRS 241.020 is hereby amended to read as follows:**

241.020 1. Except as otherwise provided by specific statute, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies. A meeting that is closed pursuant to a specific statute may only be closed to the extent specified in the statute allowing the meeting to be closed. All other portions of the meeting must be open and public, and the public body must comply with all other provisions of this chapter to the extent not specifically precluded by the specific statute. Public officers and employees responsible for these meetings shall make reasonable efforts to assist and accommodate persons with physical disabilities desiring to attend.

2. *If any portion of a meeting is open to the public, the public officers and employees responsible for the meeting must make reasonable efforts to ensure the facilities for the meeting are large enough to accommodate the anticipated number of attendees. No violation of this chapter occurs if a member of the public is not permitted to attend a public meeting because the facilities for the meeting have reached maximum capacity if reasonable efforts were taken to accommodate the anticipated number of attendees. Nothing in this subsection requires a public body to incur any costs to secure a facility outside the control or jurisdiction of the public body or to upgrade, improve or otherwise modify an existing facility to accommodate the anticipated number of attendees.*

3. Except in an emergency, written notice of all meetings must be given at least 3 working days before the meeting. The notice must include:

- (a) The time, place and location of the meeting.
- (b) A list of the locations where the notice has been posted.
- (c) The name and contact information for the person designated by the public body from whom a member of the public may request the supporting

material for the meeting described in subsection ~~6~~ 7 and a list of the locations where the supporting material is available to the public.

(d) An agenda consisting of:

(1) A clear and complete statement of the topics scheduled to be considered during the meeting.

(2) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items by placing the term “for possible action” next to the appropriate item or, if the item is placed on the agenda pursuant to NRS 241.0365, by placing the term “for possible corrective action” next to the appropriate item.

(3) Periods devoted to comments by the general public, if any, and discussion of those comments. Comments by the general public must be taken:

(I) At the beginning of the meeting before any items on which action may be taken are heard by the public body and again before the adjournment of the meeting; or

(II) After each item on the agenda on which action may be taken is discussed by the public body, but before the public body takes action on the item.

↪ The provisions of this subparagraph do not prohibit a public body from taking comments by the general public in addition to what is required pursuant to sub-subparagraph (I) or (II). Regardless of whether a public body takes comments from the general public pursuant to sub-subparagraph (I) or (II), the public body must allow the general public to comment on any matter that is not specifically included on the agenda as an action item at some time before adjournment of the meeting. No action may be taken upon a matter raised during a period devoted to comments by the general public until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2).

(4) If any portion of the meeting will be closed to consider the character, alleged misconduct or professional competence of a person, the name of the person whose character, alleged misconduct or professional competence will be considered.

(5) If, during any portion of the meeting, the public body will consider whether to take administrative action regarding a person, the name of that person.

(6) Notification that:

(I) Items on the agenda may be taken out of order;

(II) The public body may combine two or more agenda items for consideration; and

(III) The public body may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.

(7) Any restrictions on comments by the general public. Any such restrictions must be reasonable and may restrict the time, place and manner of the comments, but may not restrict comments based upon viewpoint.

~~3-4~~ 4. Minimum public notice is:

(a) Posting a copy of the notice at the principal office of the public body or, if there is no principal office, at the building in which the meeting is to be held, and at not less than three other separate, prominent places within the jurisdiction of the public body not later than 9 a.m. of the third working day before the meeting;

(b) Posting the notice on the official website of the State pursuant to NRS 232.2175 not later than 9 a.m. of the third working day before the meeting is to be held, unless the public body is unable to do so because of technical problems relating to the operation or maintenance of the official website of the State; and

(c) Providing a copy of the notice to any person who has requested notice of the meetings of the public body. A request for notice lapses 6 months after it is made. The public body shall inform the requester of this fact by enclosure with, notation upon or text included within the first notice sent. The notice must be:

(1) Delivered to the postal service used by the public body not later than 9 a.m. of the third working day before the meeting for transmittal to the requester by regular mail; or

(2) If feasible for the public body and the requester has agreed to receive the public notice by electronic mail, transmitted to the requester by electronic mail sent not later than 9 a.m. of the third working day before the meeting.

~~4.5.~~ For each of its meetings, a public body shall document in writing that the public body complied with the minimum public notice required by paragraph (a) of subsection ~~3.4.~~ The documentation must be prepared by every person who posted a copy of the public notice and include, without limitation:

(a) The date and time when the person posted the copy of the public notice;

(b) The address of the location where the person posted the copy of the public notice; and

(c) The name, title and signature of the person who posted the copy of the notice.

~~5.6.~~ If a public body maintains a website on the Internet or its successor, the public body shall post notice of each of its meetings on its website unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website. Notice posted pursuant to this subsection is supplemental to and is not a substitute for the minimum public notice required pursuant to subsection ~~3.4.~~ The inability of a public body to post notice of a meeting pursuant to this subsection as a result of technical problems with its website shall not be deemed to be a violation of the provisions of this chapter.

~~6.7.~~ Upon any request, a public body shall provide, at no charge, at least one copy of:

(a) An agenda for a public meeting;

(b) A proposed ordinance or regulation which will be discussed at the public meeting; and

(c) Subject to the provisions of subsection ~~{7 or 8}~~ 8 or 9, as applicable, any other supporting material provided to the members of the public body for an item on the agenda, except materials:

- (1) Submitted to the public body pursuant to a nondisclosure or confidentiality agreement which relates to proprietary information;
  - (2) Pertaining to the closed portion of such a meeting of the public body;
- or

(3) Declared confidential by law, unless otherwise agreed to by each person whose interest is being protected under the order of confidentiality.

↪ The public body shall make at least one copy of the documents described in paragraphs (a), (b) and (c) available to the public at the meeting to which the documents pertain. As used in this subsection, “proprietary information” has the meaning ascribed to it in NRS 332.025.

~~{7}~~ 8. Unless it must be made available at an earlier time pursuant to NRS 288.153, a copy of supporting material required to be provided upon request pursuant to paragraph (c) of subsection ~~{6}~~ 7 must be:

(a) If the supporting material is provided to the members of the public body before the meeting, made available to the requester at the time the material is provided to the members of the public body; or

(b) If the supporting material is provided to the members of the public body at the meeting, made available at the meeting to the requester at the same time the material is provided to the members of the public body.

↪ If the requester has agreed to receive the information and material set forth in subsection ~~{6}~~ 7 by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.

~~{8}~~ 9. Unless the supporting material must be posted at an earlier time pursuant to NRS 288.153, the governing body of a county or city whose population is 45,000 or more shall post the supporting material described in paragraph (c) of subsection ~~{6}~~ 7 to its website not later than the time the material is provided to the members of the governing body or, if the supporting material is provided to the members of the governing body at a meeting, not later than 24 hours after the conclusion of the meeting. Such posting is supplemental to the right of the public to request the supporting material pursuant to subsection ~~{6}~~ 7. The inability of the governing body, as a result of technical problems with its website, to post supporting material pursuant to this subsection shall not be deemed to be a violation of the provisions of this chapter.

~~{9}~~ 10. A public body may provide the public notice, information or supporting material required by this section by electronic mail. Except as otherwise provided in this subsection, if a public body makes such notice, information or supporting material available by electronic mail, the public body shall inquire of a person who requests the notice, information or supporting material if the person will accept receipt by electronic mail. If a public body is required to post the public notice, information or supporting material on its website pursuant to this section, the public body shall inquire

of a person who requests the notice, information or supporting material if the person will accept by electronic mail a link to the posting on the website when the documents are made available. The inability of a public body, as a result of technical problems with its electronic mail system, to provide a public notice, information or supporting material or a link to a website required by this section to a person who has agreed to receive such notice, information, supporting material or link by electronic mail shall not be deemed to be a violation of the provisions of this chapter.

~~10.11.~~ **11.** As used in this section, “emergency” means an unforeseen circumstance which requires immediate action and includes, but is not limited to:

- (a) Disasters caused by fire, flood, earthquake or other natural causes; or
- (b) Any impairment of the health and safety of the public.

**Sec. 6.5.** NRS 241.033 is hereby amended to read as follows:

241.033 1. Except as otherwise provided in subsection 7, a public body shall not hold a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of any person or to consider an appeal by a person of the results of an examination conducted by or on behalf of the public body unless it has:

- (a) Given written notice to that person of the time and place of the meeting; and
- (b) Received proof of service of the notice.

2. The written notice required pursuant to subsection 1:

- (a) Except as otherwise provided in subsection 3, must be:
  - (1) Delivered personally to that person at least 5 working days before the meeting; or
  - (2) Sent by certified mail to the last known address of that person at least 21 working days before the meeting.

(b) May, with respect to a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, include an informational statement setting forth that the public body may, without further notice, take administrative action against the person if the public body determines that such administrative action is warranted after considering the character, alleged misconduct, professional competence, or physical or mental health of the person.

(c) Must include:

- (1) A list of the general topics concerning the person that will be considered by the public body during the closed meeting; and
- (2) A statement of the provisions of subsection 4, if applicable.

3. The Nevada Athletic Commission is exempt from the requirements of subparagraphs (1) and (2) of paragraph (a) of subsection 2, but must give written notice of the time and place of the meeting and must receive proof of service of the notice before the meeting may be held.

4. If a public body holds a closed meeting or closes a portion of a meeting to consider the character, alleged misconduct, professional competence, or

physical or mental health of a person, the public body must allow that person to:

- (a) Attend the closed meeting or that portion of the closed meeting during which the character, alleged misconduct, professional competence, or physical or mental health of the person is considered;
- (b) Have an attorney or other representative of the person's choosing present with the person during the closed meeting; and
- (c) Present written evidence, provide testimony and present witnesses relating to the character, alleged misconduct, professional competence, or physical or mental health of the person to the public body during the closed meeting.

5. Except as otherwise provided in subsection 4, with regard to the attendance of persons other than members of the public body and the person whose character, alleged misconduct, professional competence, physical or mental health or appeal of the results of an examination is considered, the chair of the public body may at any time before or during a closed meeting:

- (a) Determine which additional persons, if any, are allowed to attend the closed meeting or portion thereof; or
- (b) Allow the members of the public body to determine, by majority vote, which additional persons, if any, are allowed to attend the closed meeting or portion thereof.

6. A public body shall provide a copy of any record of a closed meeting prepared pursuant to NRS 241.035, upon the request of any person who received written notice of the closed meeting pursuant to subsection 1.

7. For the purposes of this section:

- (a) A meeting held to consider an applicant for employment is not subject to the notice requirements otherwise imposed by this section.
- (b) Casual or tangential references to a person or the name of a person during a ~~closed~~ meeting do not constitute consideration of the character, alleged misconduct, professional competence, or physical or mental health of the person.

***(c) A meeting held to recognize or award positive achievements of a person, including, without limitation, honors, awards, tenure and commendations, is not subject to the notice requirements otherwise imposed by this section.***

**Sec. 7.** NRS 241.035 is hereby amended to read as follows:

241.035 1. Each public body shall keep written minutes of each of its meetings, including:

- (a) The date, time and place of the meeting.
- (b) Those members of the public body who were present, whether in person or by means of electronic communication, and those who were absent.
- (c) The substance of all matters proposed, discussed or decided and, at the request of any member, a record of each member's vote on any matter decided by vote.

(d) The substance of remarks made by any member of the general public who addresses the public body if the member of the general public requests that the minutes reflect those remarks or, if the member of the general public has prepared written remarks, a copy of the prepared remarks if the member of the general public submits a copy for inclusion.

(e) Any other information which any member of the public body requests to be included or reflected in the minutes.

↳ Unless good cause is shown, a public body shall approve the minutes of a meeting within 45 days after the meeting or at the next meeting of the public body, whichever occurs later.

2. Minutes of public meetings are public records. Minutes or an audio recording of a meeting made in accordance with subsection 4 must be made available for inspection by the public within 30 working days after adjournment of the meeting. A copy of the minutes or audio recording must be made available to a member of the public upon request at no charge. The minutes shall be deemed to have permanent value and must be retained by the public body for at least 5 years. Thereafter, the minutes may be transferred for archival preservation in accordance with NRS 239.080 to 239.125, inclusive. Minutes of meetings closed pursuant to:

(a) Paragraph (a) of subsection 1 of NRS 241.030 become public records when the public body determines that the matters discussed no longer require confidentiality and the person whose character, conduct, competence or health was considered has consented to their disclosure. That person is entitled to a copy of the minutes upon request whether or not they become public records.

(b) Paragraph (b) of subsection 1 of NRS 241.030 become public records when the public body determines that the matters discussed no longer require confidentiality.

(c) Paragraph (c) of subsection 1 of NRS 241.030 become public records when the public body determines that the matters considered no longer require confidentiality and the person who appealed the results of the examination has consented to their disclosure, except that the public body shall remove from the minutes any references to the real name of the person who appealed the results of the examination. That person is entitled to a copy of the minutes upon request whether or not they become public records.

3. All or part of any meeting of a public body may be recorded on audiotape or any other means of sound or video reproduction by a member of the general public if it is a public meeting so long as this in no way interferes with the conduct of the meeting.

4. Except as otherwise provided in subsection ~~{7-}~~ 8, a public body shall, for each of its meetings, whether public or closed, record the meeting on audiotape or another means of sound reproduction or cause the meeting to be transcribed by a court reporter who is certified pursuant to chapter 656 of NRS. If a public body makes an audio recording of a meeting or causes a meeting to be transcribed pursuant to this subsection, the audio recording or transcript:

(a) Must be retained by the public body for at least ~~1 year~~ **3 years** after the adjournment of the meeting at which it was recorded or transcribed;

(b) Except as otherwise provided in this section, is a public record and must be made available for inspection by the public during the time the recording or transcript is retained; and

(c) Must be made available to the Attorney General upon request.

5. The requirement set forth in subsection 2 that a public body make available a copy of the minutes or audio recording of a meeting to a member of the public upon request at no charge does not ~~+~~

~~(a) Prohibit~~ **prohibit** a court reporter who is certified pursuant to chapter 656 of NRS from charging a fee to the public body for any services relating to the transcription of a meeting. ~~+~~ ~~or~~

~~(b) Require a~~

6. A court reporter who transcribes a meeting **is not required** to provide a copy of any transcript, minutes or audio recording of the meeting prepared by the court reporter **directly** to a member of the public at no charge.

~~6.~~ 7. Except as otherwise provided in subsection ~~7.~~ **8**, any portion of a public meeting which is closed must also be recorded or transcribed and the recording or transcript must be retained and made available for inspection pursuant to the provisions of subsection 2 relating to records of closed meetings. Any recording or transcript made pursuant to this subsection must be made available to the Attorney General upon request.

~~7.~~ 8. If a public body makes a good faith effort to comply with the provisions of subsections 4 and ~~6.~~ 7 but is prevented from doing so because of factors beyond the public body's reasonable control, including, without limitation, a power outage, a mechanical failure or other unforeseen event, such failure does not constitute a violation of the provisions of this chapter.

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 241.039 is hereby amended to read as follows:

241.039 1. A complaint that alleges a violation of this chapter may be filed with the Office of the Attorney General. ***The Office of the Attorney General shall notify a public body identified in a complaint of the alleged violation not more than 14 days after the complaint is filed.***

2. Except as otherwise provided in ***subsection 3 and*** NRS 241.0365, the Attorney General ~~shall~~ **:**

(a) ***Shall*** investigate and prosecute any violation of this chapter ~~+~~ ***alleged in a complaint filed not later than 120 days after the alleged violation with the Office of the Attorney General.***

(b) ***Except as otherwise provided in paragraph (c), shall not investigate and prosecute any violation of this chapter alleged in a complaint filed with the Office of the Attorney General later than 120 days after the alleged violation.***

(c) *May, at his or her discretion, investigate and prosecute any violation of this chapter alleged in a complaint filed more than 120 days after the alleged violation with the Office of the Attorney General if:*

*(1) The alleged violation was not discoverable at the time that the alleged violation occurred; and*

*(2) The complaint is filed not more than 1 year after the alleged violation with the Office of the Attorney General.*

3. *The Attorney General is not required to investigate or prosecute any alleged violation of this chapter if the Attorney General determines that the complaint was filed in bad faith or the interests of the person who filed the complaint are not significantly affected by the action of the public body that is alleged to violate this chapter. For purposes of this subsection:*

*(a) A complaint is filed in bad faith if the person who filed the complaint has:*

*(1) Filed at least one other complaint against the same public body within the immediately preceding 12 months and no such complaint has resulted in a finding by the Attorney General that a violation of this chapter occurred; and*

*(2) Engaged in previous conduct to harass or annoy the public body, its members or its staff.*

*(b) The interests of the person who filed the complaint are not significantly affected by the action of the public body that is alleged to violate this chapter unless:*

*(1) The person who filed the complaint would have standing to challenge the action of the public body in a court of law; or*

*(2) The person who filed the complaint:*

*(I) Is a natural person and resides within the geographic area over which the public body has jurisdiction; or*

*(II) Is any form of business, a social organization or any other nongovernmental legal entity in this State that has a mission or purpose to foster or protect democratic principles or promote transparency in government.*

4. Except as otherwise provided in subsection ~~6~~ 7 and NRS 239.0115, all documents and other information compiled as a result of an investigation conducted pursuant to subsection 2 are confidential until the investigation is closed.

~~4~~ 5. In any investigation conducted pursuant to subsection 2, the Attorney General may issue subpoenas for the production of any relevant documents, records or materials.

~~5~~ 6. A person who willfully fails or refuses to comply with a subpoena issued pursuant to this section is guilty of a misdemeanor.

~~6~~ 7. The following are public records:

(a) A complaint filed pursuant to subsection 1.

(b) Every finding of fact or conclusion of law made by the Attorney General relating to a complaint filed pursuant to subsection 1.

(c) Any document or information compiled as a result of an investigation conducted pursuant to subsection 2 that may be requested pursuant to NRS 239.0107 from a governmental entity other than the Office of the Attorney General.

~~7.1~~ **8.** *Upon completion of an investigation conducted pursuant to subsection 2, the Attorney General shall inform the public body that is the subject of the investigation and issue, as applicable:*

- (a) *A finding that no violation of this chapter occurred; or*
- (b) *A finding that a violation of this chapter occurred, along with findings of fact and conclusions of law that support the finding that a violation of this chapter occurred.*

~~8.1~~ **9.** *A public body or, if authorized by the public body, an attorney employed or retained by the public body, shall submit a response to the Attorney General not later than 30 days after receipt of any finding that the public body violated this chapter. If the Attorney General does not receive a response within 30 days after receipt of the finding, it shall be deemed that the public body disagrees with the finding of the Attorney General.*

**Sec. 11.** NRS 241.0395 is hereby amended to read as follows:

241.0395 1. If the Attorney General makes findings of fact and conclusions of law that a public body has ~~taken action in violation of~~ **violated** any provision of this chapter, the public body must include an item on the next agenda posted for a meeting of the public body which acknowledges **the existence of** the findings of fact and conclusions of law. The opinion of the Attorney General must be treated as supporting material for the item on the agenda for the purposes of NRS 241.020.

2. The inclusion of an item on the agenda for a meeting of a public body pursuant to subsection 1 is not an admission of wrongdoing for the purposes of a civil action, criminal prosecution or injunctive relief.

**Sec. 12.** NRS 241.040 is hereby amended to read as follows:

241.040 1. ~~Each~~ **Except as otherwise provided in subsection 6, each** member of a public body who attends a meeting of that public body where ~~action is taken in violation of~~ any ~~provision~~ **violation** of this chapter ~~with~~ **occurs, has** knowledge of the ~~fact that the meeting is in violation thereof,~~ **violation and participates in the violation,** is guilty of a misdemeanor.

2. ~~Wrongful~~ **Except as otherwise provided in subsection 6, wrongful** exclusion of any person or persons from a meeting is a misdemeanor.

3. A member of a public body who attends a meeting of that public body at which ~~action is taken in~~ a violation of this chapter **occurs** is not the accomplice of any other member so attending.

4. ~~In~~ **Except as otherwise provided in subsection 6, in** addition to any criminal penalty imposed pursuant to this section, each member of a public body who attends a meeting of that public body where ~~action is taken in violation of~~ any ~~provision~~ **violation** of this chapter ~~with~~ **occurs** and who participates in such ~~action at the meeting~~ **violation** with knowledge of the

violation, is subject to ~~[-a civil penalty]~~ **an administrative fine** in an amount not to exceed :

(a) **For a first offense**, \$500 ~~[-The Attorney General may recover the penalty];~~

(b) **For a second offense**, \$1,000; and

(c) **For a third or subsequent offense**, \$2,500.

5. **The Attorney General may recover the penalty** in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction. Such an action must be commenced within 1 year after the ~~[-date of the action taken in violation of this chapter.]~~ **fine is assessed.**

6. **No criminal penalty or administrative fine may be imposed upon a member of a public body pursuant to this section if a member of a public body violates a provision of this chapter as a result of legal advice provided by an attorney employed or retained by the public body.**

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Assemblyman Flores moved that the Assembly do not concur in the Senate Amendment No. 878 to Assembly Bill No. 70.

Remarks by Assemblyman Flores.

Motion carried.

Bill ordered transmitted to the Senate.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Hansen, the privilege of the floor of the Assembly Chamber for this day was extended to Melissa Clement, Bob Taylor, Teresa West, and Robert Taylor.

On request of Assemblyman Kramer, the privilege of the floor of the Assembly Chamber for this day was extended to Gillian B. Mandel and Heather Mandel.

On request of Assemblywoman Peters, the privilege of the floor of the Assembly Chamber for this day was extended to Cullen McGinnis.

Assemblywoman Benitez-Thompson moved that the Assembly adjourn until Friday, May 31, 2019, at 11:30 a.m.

Motion carried.

Assembly adjourned at 8:52 p.m.

Approved:

JASON FRIERSON  
*Speaker of the Assembly*

Attest: SUSAN FURLONG  
*Chief Clerk of the Assembly*