NEVADA LEGISLATURE
81st Session, 2021

SENATE DAILY JOURNAL

THE SEVENTY-NINTH DAY

CARSON CITY (Tuesday), April 20, 2021

Senate called to order at 2:27 p.m.
President Marshall presiding.
Roll called.
All present.
Prayer by Senator Hammond.

Heavenly Father, we are grateful and humbled to be here this day. We are grateful for the opportunity to serve our constituents in this Great State of Nevada. We are also grateful to have this association with one another in this Body and for the opportunity to work collaboratively together to look at the needs of our State and find solutions. We are grateful to have such wonderful and tremendous people surrounding us. Our staff performs much of the work on our behalf. They put in many hours. We are grateful to be, here, on this deadline day thinking over each of these potentially important bills. We pray we will be thoughtful and mindful of each other, our constituents and the job we have to do.

Bless us this day to remember whom we are and what we are supposed to be doing.
Thank Thee for all the wonderful blessings in our lives.
In the Name of Jesus, Christ.

AMEN.

Pledge of Allegiance to the Flag.

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

MESSAGES FROM ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 19, 2021

To the Honorable the Senate:
I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 20, 42, 58, 129, 132, 141, 143, 148, 181, 201, 406, 414.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly
WAIVERS AND EXEMPTIONS
NOTICE OF EXEMPTION

April 20, 2021

The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the eligibility for exemption of Senate Bills Nos. 347, 380, 390.

WAYNE THORLEY
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Lange has approved the addition of Senator Donate as a primary sponsor of Senate Bill No. 329.

Senator Cannizzaro moved that Senate Bill Nos. 263, 314, 320, 381 be taken from the General File and placed on the General File last Agenda.
Motion carried.

Senator Cannizzaro moved that Senate Bills Nos. 170, 407 be taken from the General File and placed on the Secretary’s desk.
Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 20.
Senator Ratti moved that the bill be referred to the Committee on Revenue and Economic Development.
Motion carried.

Assembly Bill No. 42.
Senator Ratti moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 58.
Senator Ratti moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 129.
Senator Ratti moved that the bill be referred to the Committee on Legislative Operations and Elections.
Motion carried.

Assembly Bill No. 132.
Senator Ratti moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 141.
Senator Ratti moved that the bill be referred to the Committee on Judiciary.
Motion carried.

Assembly Bill No. 143.
Senator Ratti moved that the bill be referred to the Committee on Judiciary.
Motion carried.
Assembly Bill No. 148.  
Senator Ratti moved that the bill be referred to the Committee on Natural Resources. 
Motion carried.

Assembly Bill No. 181.  
Senator Ratti moved that the bill be referred to the Committee on Health and Human Services.  
Motion carried.

Assembly Bill No. 201.  
Senator Ratti moved that the bill be referred to the Committee on Judiciary.  
Motion carried.

Assembly Bill No. 406.  
Senator Ratti moved that the bill be referred to the Committee on Judiciary.  
Motion carried.

Assembly Bill No. 414.  
Senator Ratti moved that the bill be referred to the Committee on Revenue and Economic Development.  
Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 4.  
Bill read third time.  
Remarks by Senator Ohrenschall.

Senate Bill No. 4 clarifies that criminal or civil penalties, or both, may be imposed for violation of an ordinance that regulates the sale, use, storage and possession of fireworks. The bill provides that a civil penalty imposed may not exceed $10,000 for a single violation and requires the consideration of certain factors in determining the amount and category of civil and criminal penalties. The bill provides that civil penalties may not be imposed on a person who has received a license or permit pursuant to the ordinance and that the ordinance does not apply to a child under 18 years of age unless the child has been emancipated.

Roll call on Senate Bill No. 4:

Y E A S—18.
N A Y S—Buck, Donate, Settelmeyer—3.

Senate Bill No. 4 having received a constitutional majority, Madam President declared it passed, as amended.  
Bill ordered transmitted to the Assembly.

Senate Bill No. 18.  
Bill read third time.  
Remarks by Senator Harris.

Senate Bill No. 18 increases the maximum allowable administrative fines imposed by the Public Utilities Commission of Nevada (PUCN) for violation of statutes relating to public utilities. The maximum amounts are increased for both daily fines and a fine for a series of violations. The bill authorizes an administrative fine for the submittal of information that is materially false or misleading and which the person knew or should have known using reasonable care was materially
inaccurate. If the PUCN determines certain violations are willful and knowing, or detrimental to public health and safety, the measure allows for higher maximum fines. The measure also increases the allowable administrative fine from $500 to $50,000 for certain violations of Chapter 704, "Regulation of Public Utilities Generally" of the Nevada Revised Statutes, and for a failure to obey orders, decisions or regulations of the PUCN.

Senate Bill No. 18 adds to the factors the PUCN must take into consideration when determining the amount of an administrative fine to ensure it is proportional to the violation. The additional factors include, but are not limited to, willfulness, potential impacts on health and safety, financial or economic benefits, any history of noncompliance and the amounts of fines previously assessed for similar violations.

Roll call on Senate Bill No. 18:
YEAS—21.
NAYS—None.

Senate Bill No. 18 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 21.
Bill read third time.
Remarks by Senator Ohrenschall.

Senate Bill No. 21 revises and standardizes the specified crimes for which an institution, agency or facility that serves children in the areas of child welfare, juvenile justice or residential mental-health treatment in this State is required or authorized to deny an application for employment or to terminate employment. An agency that provides child-welfare services may waive the prohibition on hiring an applicant who has been convicted of a specified crime if the agency adopts and applies an objective weighing test whereby certain factors are considered including, among other factors, the applicant's age, maturity and capacity at the time of his or her conviction and the length of time since the applicant committed the crime. An agency decision is not appealable. A review of relevant data must be conducted every two years to determine the efficacy of the test and identify implicit bias, and applicants and employees are allowed to correct information that they believe has been reported incorrectly.

Roll call on Senate Bill No. 21:
YEAS—21.
NAYS—None.

Senate Bill No. 21 having received a two-thirds majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 36.
Bill read third time.
Remarks by Senator Lange.

Senate Bill No. 36 provides that the crisis committee of a school district's board of trustees, charter school's governing board and private school must include a representative of the county or district board of health and requires that the parent or legal guardian representative not be an employee of a school or school district. Certain plans developed by a crisis committee to respond to a crisis, emergency or suicide must be used for responding to all hazards. Furthermore, Senate Bill No. 36 requires that notice of a plan's review and update be posted on the website of each school district and school. The Open Meeting Law does not apply to meetings concerning emergency response plans.
The bill also requires Nevada's Department of Education to include a procedure for responding to an epidemic in its model plan for managing a suicide, crisis or emergency. Finally, Senate Bill No. 36 requires the governing body of each charter school to designate a school safety specialist who must provide certain employees of public safety agencies with an opportunity to become familiar with a school's blueprint every three years.

Roll call on Senate Bill No. 36:
YEAS—21.
NAYS—None.

Senate Bill No. 36 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 50.
Bill read third time.
Remarks by Senator Ohrenschall.
Senate Bill No. 50 prohibits the issuance of a no-knock arrest warrant or a no-knock search warrant unless it is demonstrated via sworn affidavit that the underlying crime involves a significant and imminent threat to public safety and that giving notice in serving a warrant is likely to create an imminent threat of death or serious bodily injury to the officers executing the warrant or to another person. The bill sets forth criteria that an application for a no-knock warrant must meet and sets forth the manner in which a no-knock warrant must be executed.

Roll call on Senate Bill No. 50:
YEAS—21.
NAYS—None.

Senate Bill No. 50 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 63.
Bill read third time.
Remarks by Senator Hansen.
Senate Bill No. 63 requires that an application for registration as a grower or handler of hemp or a producer of agricultural hemp seed be submitted to the State Department of Agriculture on or before July 1 of any year, and the applicant must submit a complete set of the applicant's fingerprints, or certain information required by the Department, to perform a background check to verify eligibility in accordance with federal regulations. The circumstances under which the Department is authorized to refuse to issue, renew, suspend or revoke a registration as a grower, handler or producer are revised.
The bill sets forth certain requirements for the sampling and testing of hemp before it is harvested, and it authorizes a grower to perform remediation activities on a growing crop of hemp that has a THC concentration that exceeds federal limits to render the crop compliant. If a grower fails to submit a plan to perform such remediation, then the Department is authorized to detain, seize or embargo the crop.

Roll call on Senate Bill No. 63:
YEAS—21.
NAYS—None.
Senate Bill No. 63 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 67.
Bill read third time.
Remarks by Senator Neal.
Senate Bill No. 67 establishes a four-year pilot program to gather data on the use of job order contracts for certain public works in Clark County, the City of Henderson, the City of Las Vegas, the City of North Las Vegas and the Clark County Water Reclamation District. It provides certain requirements for the solicitation and fulfillment of job order contracts. The bill requires a public body to submit a quarterly report on the job order contracts pilot program to the Director of the Legislative Counsel Bureau.

Roll call on Senate Bill No. 67:
YEAS—20.
NAYS—Hansen.

Senate Bill No. 67 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 77.
Bill read third time.
Remarks by Senator Goicoechea.
Senate Bill No. 77 exempts from the requirements of the Open Meeting Law certain meetings conducted by a public body for the purpose of engaging in predecisional and deliberative discussions relating to an action under the National Environmental Policy Act (NEPA) of 1969.

The bill requires that any such closed meeting discussions must occur before the federal agency publicly releases the document addressing the action under NEPA and begins the corresponding public-comment period. It requires the federal agency be kept confidential under the memorandum of understanding or other agreement.

Roll call on Senate Bill No. 77:
YEAS—21.
NAYS—None.

Senate Bill No. 77 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 94.
Bill read third time.
Remarks by Senator Settelmeyer.
Senate Bill No. 94 provides that an unlocked gate does not, in and of itself, constitute a nuisance.

Roll call on Senate Bill No. 94:
YEAS—21.
NAYS—None.
Senate Bill No. 94 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 102.
Bill read third time.
Remarks by Senator Hammond.
Senate Bill No. 102 changes from September 30 to August 7 the dates by which a child must be a certain age at the beginning of a school year in order to be admitted to certain grades.

Roll call on Senate Bill No. 102:
YEAS—21.
NAYS—None.

Senate Bill No. 102 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 112.
Bill read third time.
Remarks by Senator Settelmeyer.
Senate Bill No. 112 provides for certain veterinary biologic products that are regulated under existing federal law to be excluded from regulation under Nevada law. These products are to be administered only to certain livestock, specifically cattle, goats, pigs, sheep and poultry.

Roll call on Senate Bill No. 112:
YEAS—21.
NAYS—None.

Senate Bill No. 112 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 114.
Bill read third time.
Remarks by Senator Goicoechea.
Senate Bill No. 114 revises various provisions concerning hemp and the operation of food establishments at which food is not prepared or served for immediate consumption for the purpose of authorizing food that contains an approved hemp component to be produced or sold at such a food establishment under certain circumstances.
Nevada's Department of Health and Human Services is required to adopt regulations that identify contaminants of commodities or products, which are foods that contain an approved hemp component, and prescribe tolerances for such contaminants. Food containing hemp shall not be deemed to be adulterated solely because it contains an approved hemp component.

Roll call on Senate Bill No. 114:
YEAS—20.
NAYS—Kieckhefer.

Senate Bill No. 114 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.
Senate Bill No. 125.
Bill read third time.
Remarks by Senator Settelmeyer.
Senate Bill No. 125 authorizes a person who is licensed as a master falconer and who meets certain federal conditions to possess a golden eagle under certain circumstances. The Board of Wildlife Commissioners may adopt regulations that authorize certain persons to transport, transfer, possess or use a golden eagle in falconry. Such persons must first obtain an eagle permit from the Department of Wildlife. The Commission must adopt regulations that impose civil penalties against a person who violates various prohibitions against tampering with bald eagles and golden eagles.

Roll call on Senate Bill No. 125:
YEAS—21.
NAYS—None.

Senate Bill No. 125 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 138.
Bill read third time.
Remarks by Senators Lange and Dondero Loop.

SENATOR LANGE:
Senate Bill No. 138 provides that a city or county may only exercise powers relating to planned unit developments if the county or city enacts an ordinance for planned unit development in conformance with certain requirements. The ordinance must require the plan to be set forth in written and graphic materials. It sets forth certain procedures for reviewing an application for a plan and procedures for reviewing an application to modify, remove or release any provision of a plan.
The bill revises requirements for minimum-site areas and parking for a planned unit development, eliminates a requirement for tentative approval of a plan for a planned unit development under certain circumstances. It makes various other changes relating to provisions affecting planned unit developments.

SENATOR DONDERO LOOP:
(To be entered at a later date.)

Roll call on Senate Bill No. 138:
YEAS—19.
NAYS—Dondero Loop, Ohrenschall—2.

Senate Bill No. 138 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 143.
Bill read third time.
Remarks by Senator Harris.
Senate Bill No. 143 expresses the Legislature's intent to protect and promote a parent or guardian's right to raise his or her children and protect a parent or guardian's decision to allow his or her children time to engage in unsupervised activities. It acknowledges that minorities and impoverished families are disproportionately subject to intervention concerning their children and deserve equitable treatment under the law.
The bill clarifies that a person does not commit abuse, neglect or endangerment of a child solely because the person allows a child to take part in "independent activities," which are to be defined in regulation by the Division of Child and Family Services of the Department of Health and Human Services. Senate Bill No. 143 clarifies that negligent treatment or maltreatment of a child occurs, if the circumstances exist, because of the faults or habits of the person responsible for the child's welfare.

Roll call on Senate Bill No. 143:
YEAS—21.
NAYS—None.

Senate Bill No. 143 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 150.
Bill read third time.
Remarks by Senator Harris.
(To be entered at a later date.)

Roll call on Senate Bill No. 150:
YEAS—20.
NAYS—Neal.

Senate Bill No. 150 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 172.
Bill read third time.
Remarks by Senator Denis.
(To be entered at a later date.)

Roll call on Senate Bill No. 172:
YEAS—21.
NAYS—None.

Senate Bill No. 172 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 176.
Bill read third time.
Remarks by Senator Seevers Gansert.
(To be entered at a later date.)

Roll call on Senate Bill No. 176:
YEAS—21.
NAYS—None.

Senate Bill No. 176 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.
Senate Bill No. 181.
Bill read third time.
Remarks by Senator Goicoechea.
(To be entered at a later date.)

Roll call on Senate Bill No. 181:

YEAS—21.
NAYS—None.

Senate Bill No. 181 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 201.
Bill read third time.
The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 261.
SUMMARY—Requires licensing of pharmaceutical sales representatives.

AN ACT relating to pharmaceutical sales representatives; providing for the licensure and regulation of pharmaceutical sales representatives; providing a penalty; and providing other matters properly relating thereto.
Legislative Counsel’s Digest:
Under existing law, the Division of Public and Behavioral Health of the Department of Health and Human Services licenses and regulates certain health care facilities and organizations that provide health care. (Chapter 449 of NRS) Sections 2-13 of this bill require the Division to also license and regulate pharmaceutical sales representatives. Section 7 of this bill prohibits a person from marketing prescription drugs in this State to providers of health care, pharmacies or employees thereof, operators or employees of certain medical facilities, and insurers, for more than 15 days in a calendar year without obtaining a license from the Division. Section 7 also: (1) provides that such a license expires after 1 year; and (2) requires the State Board of Health to adopt regulations concerning the practice and regulation of pharmaceutical sales representatives. Section 8 of this bill prohibits a licensed pharmaceutical sales representative from engaging in certain conduct. Section 9 of this bill requires the Division to keep records of proceedings relating to the licensure, discipline and investigation of pharmaceutical sales representatives. Sections 9 and 15 of this bill declare certain records related to such proceedings to be confidential. Sections 10 and 11 of this bill enact certain provisions necessary to comply with federal law governing the collection of child support from persons holding a professional license, including a requirement in section 10 that an applicant for a license include his or her social security number in the application. Sections 18 and 19 of this bill eliminate that requirement on the date Congress repeals those provisions of federal law.
Section 19 also eliminates all of the requirements related to the collection of child support 2 years after Congress repeals the provisions of federal law imposing those requirements. Section 14 of this bill makes a conforming change to clarify the applicability of the requirement governing the submission of a social security number.

Section 12 of this bill provides that it is a misdemeanor to violate any provision of sections 2-13 relating to the licensure and regulation of pharmaceutical sales representatives. Section 13 of this bill authorizes the Division to maintain an action for an injunction against a natural person or business entity who violates any provision of sections 2-13. Section 16 of this bill makes a conforming change to ensure that the term “pharmaceutical sales representative” is defined for an existing provision of law in the same manner as that term is defined in section 5 of this bill. (NRS 439B.660) Section 17 of this bill classifies pharmaceutical sales representatives as professionals for the purposes of certain requirements related to compensation, wages and hours and exemptions from those requirements.

Under section 7, fees collected for the licensure of pharmaceutical sales representation: (1) must be accounted for separately in the State General Fund; (2) used only to cover the costs of licensing and regulating pharmaceutical sales representatives and for the purposes of improving transparency concerning the costs of prescription drugs; and (3) do not revert to the State General Fund at the end of any fiscal year.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLL...
representative issued by the Division. Such a license expires 1 year after the date on which the license is issued and may be renewed.

2. The State Board of Health shall adopt regulations to carry out the provisions of this chapter. The regulations must establish, without limitation:
   (a) The qualifications for obtaining and renewing a license as a pharmaceutical sales representative, including, without limitation, any necessary training or continuing education required to obtain or renew such a license.
   (b) The requirements and procedures to apply for or renew a license as a pharmaceutical sales representative, including, without limitation, the fees to apply for, reinstate or renew a license. Such fees must be not less than $500 but not more than $800.
   (c) Standards of practice for pharmaceutical sales representatives.
   (d) The types of disciplinary action that may be imposed for violating any provision of this chapter or any regulation adopted pursuant thereto. Such disciplinary action may include, without limitation, the suspension or revocation of a license, the placement of limitations on the practice of a licensee and the imposition of an administrative penalty.
   (e) Grounds for initiating disciplinary action.
   (f) Procedures for imposing disciplinary action.
   (g) Procedures for the submission, investigation and resolution of a complaint for violating any provision of this chapter or any regulation adopted pursuant thereto.

3. The money collected as fees pursuant to this section must be deposited in the State Treasury and accounted for separately in the State General Fund. The Department shall administer the account and use money in the account only to cover the costs to the Division of administering the provisions of sections 2 to 13, inclusive, of this act and for purposes relating to the improvement of transparency concerning the costs of prescription drugs including, without limitation, the administration of NRS 439B.600 to 439B.695, inclusive. The interest and income earned on money in the account, after deducting any applicable charges, must be credited to the account. Money in the account does not revert to the State General Fund at the end of any fiscal year.

Sec. 8. A pharmaceutical sales representative shall not:
1. Engage in deceptive or misleading marketing;
2. Falsely represent that he or she is licensed or certified as a provider of health care; or
3. Attend an examination of a patient by a provider of health care without the consent of the patient.

Sec. 9. 1. The Division shall keep a record of its proceedings conducted pursuant to this chapter relating to licensing, disciplinary actions and investigations. Except as otherwise provided in this chapter, the records must be open to public inspection at all reasonable times.
2. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Division, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential and privileged, unless the person submits a written statement to the Division requesting that such documents and information be made public records.

3. A complaint or other document filed by the Division to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information considered by the Division when determining whether to impose discipline are public records.

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

5. The provisions of this section do not prohibit the Division from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 10. 1. In addition to any other requirements set forth in the regulations adopted pursuant to section 7 of this act, an applicant for the issuance or renewal of a license as a pharmaceutical sales representative must:

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

(b) Submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Division.

3. A license as a pharmaceutical sales representative may not be issued or renewed by the Division if the applicant:

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

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district
attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 11. 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a pharmaceutical sales representative, the Division shall deem the certificate issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Division receives a letter issued to the holder of the certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate a license to a pharmaceutical sales representative that has been suspended by a district court pursuant to NRS 425.540 if:
   (a) The Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560; and
   (b) The person whose license was suspended pays the fee imposed pursuant to the regulations adopted pursuant to section 7 of this act for the reinstatement of a suspended license.

Sec. 12. A person who violates the requirements of this chapter is guilty of a misdemeanor and may be subject to additional disciplinary action as prescribed by the regulations adopted pursuant to section 7 of this act.

Sec. 13. 1. The Division may maintain in any court of competent jurisdiction an action for an injunction against any natural person or business entity who violates any provision of this chapter.

2. Such an injunction:
   (a) May be issued without proof of actual damage sustained by any natural person or business entity.
   (b) Does not relieve the natural person or business entity from any criminal prosecution for the same violation.

Sec. 14. NRS 622.238 is hereby amended to read as follows:

NRS 622.238 1. The Legislature hereby finds and declares that:
   (a) It is in the best interests of this State to make full use of the skills and talents of every resident of this State.
   (b) It is the public policy of this State that each resident of this State, regardless of his or her immigration or citizenship status, is eligible to receive the benefit of applying for a license, certificate or permit pursuant to 8 U.S.C. § 1621(d).
2. Notwithstanding any other provision of this title, a regulatory body shall not deny the application of a person for the issuance of a license pursuant to this title based solely on his or her immigration or citizenship status.


4. A regulatory body shall not disclose to any person who is not employed by the regulatory body the social security number or alternative personally identifying number, including, without limitation, an individual taxpayer identification number, of an applicant for a license for any purpose except:
   (a) Tax purposes;
   (b) Licensing purposes; and
   (c) Enforcement of an order for the payment of child support.

5. A social security number or alternative personally identifying number, including, without limitation, an individual taxpayer identification number, provided to a regulatory body is confidential and is not a public record for the purposes of chapter 239 of NRS.

Sec. 15. NRS 239.010 is hereby amended to read as follows:

648.197, 649.065, 649.067, 652.228, 653.900, 654.110, 656.105, 657A.510,
661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450,
673.480, 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710,
678C.800, 679A.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285,
679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873,
685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010,
688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507,
692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550,
696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, section 9 of this act, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate, including, without limitation, electronically, the confidential information from the information included in the public book or record that is not otherwise confidential.

4. If requested, a governmental entity shall provide a copy of a public record in an electronic format by means of an electronic medium. Nothing in this subsection requires a governmental entity to provide a copy of a public record in an electronic format or by means of an electronic medium if:
   (a) The public record:
      (1) Was not created or prepared in an electronic format; and
      (2) Is not available in an electronic format; or
   (b) Providing the public record in an electronic format or by means of an electronic medium would:
      (1) Give access to proprietary software; or
      (2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.
5. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:
   (a) Shall not refuse to provide a copy of that public record in the medium that is requested because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.
   (b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 16. NRS 439B.660 is hereby amended to read as follows:

439B.660 1. A manufacturer of a prescription drug shall provide to the Department a list of each pharmaceutical sales representative who markets prescription drugs on behalf of the manufacturer to providers of health care licensed, certified or registered in this State, pharmacies or employees thereof, operators or employees of medical facilities or persons licensed or certified under the provisions of title 57 of NRS and update the list at least annually.

2. The Department shall provide electronic access to the most recent list provided by each manufacturer pursuant to subsection 1 to each provider of health care licensed, certified or registered in this State, operator of a pharmacy, operator of a medical facility or person licensed or certified under the provisions of title 57 for the purposes of ensuring compliance with the requirements of subsection 3. This subsection must not be construed to impose any duty on a provider of health care, operator of a pharmacy, operator of a medical facility or person licensed or certified under the provisions of title 57 to ensure such compliance.

3. A person who is not included on a current list submitted pursuant to subsection 1 shall not market prescription drugs on behalf of a manufacturer:
   (a) To any provider of health care licensed, certified or registered in this State, pharmacy or employee thereof, operator or employee of a medical facility or person licensed or certified under the provisions of title 57 of NRS;
   or
   (b) For sale to any resident of this State.

4. On or before March 1 of each year, each person who was included on a list of pharmaceutical sales representatives submitted pursuant to subsection 1 at any time during the immediately preceding calendar year shall submit to the Department a report, which must include, for the immediately preceding calendar year:
   (a) A list of providers of health care licensed, certified or registered in this State, pharmacies and employees thereof, operators and employees of medical facilities and persons licensed or certified under the provisions of title 57 of NRS to whom the pharmaceutical sales representative provided:
      (1) Any type of compensation with a value that exceeds $10; or
      (2) Total compensation with a value that exceeds $100 in aggregate; and
   (b) The name and manufacturer of each prescription drug for which the pharmaceutical sales representative provided a free sample to a provider of
health care licensed, certified or registered in this State, pharmacy or employee thereof, operator or employee of a medical facility or person licensed or certified under the provisions of title 57 of NRS and the name of each such person to whom a free sample was provided.

5. The Department shall analyze annually the information submitted pursuant to subsection 4 and compile a report on the activities of pharmaceutical sales representatives in this State. Any information contained in such a report that is derived from a list provided pursuant to subsection 1 or a report submitted pursuant to subsection 4 must be reported in aggregate and in a manner that does not reveal the identity of any person or entity. On or before June 1 of each year, the Department shall:
   (a) Post the report on the Internet website maintained by the Department; and
   (b) Submit the report to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the Legislative Committee on Health Care and, in even-numbered years, the next regular session of the Legislature.

6. As used in this section:
   (a) “Medical facility” has the meaning ascribed to it in NRS 629.026.
   (b) “Pharmaceutical sales representative” means a person who markets prescription drugs to providers of health care licensed, certified or registered in this State, pharmacies or employees thereof, operators or employees of medical facilities or persons licensed or certified under the provisions of title 57 of NRS.
   (c) “Provider of health care” has the meaning ascribed to it in section 5 of this act.

Sec. 17. NRS 608.0116 is hereby amended to read as follows:
608.0116 “Professional” means pertaining to:
1. An employee who is licensed or certified by the State of Nevada for and engaged in the practice of law or any of the professions regulated by chapters 623 to 645, inclusive, 645G and 656A of NRS and sections 2 to 13, inclusive, of this act.
2. A creative professional as described in 29 C.F.R. § 541.302 who is not an employee of a contractor as that term is defined in NRS 624.020.

Sec. 18. Section 10 of this act is hereby amended to read as follows:
Sec. 10. 1. In addition to any other requirements set forth in the regulations adopted pursuant to section 7 of this act, an applicant for the issuance or renewal of a license as a pharmaceutical sales representative must:
   (a) Include the social security number of the applicant in the application submitted to the Division.
   (b) Submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.
2. The Division shall include the statement required pursuant to subsection 1 in:
   (a) The application or any other forms that must be submitted for the issuance or renewal of the license; or
   (b) A separate form prescribed by the Division.
3. A license as a pharmaceutical sales representative may not be issued or renewed by the Division if the applicant:
   (a) Fails to submit the statement required pursuant to subsection 1; or
   (b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.
4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 19. 1. This section becomes effective upon passage and approval.
2. Sections 1 to 17, inclusive, of this act become effective:
   (a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and
   (b) On January 1, 2022, for all other purposes.
3. Section 18 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:
   (a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or
   (b) Are in arrears in the payment for the support of one or more children, are repealed by the Congress of the United States.
4. Sections 10, 11 and 18 of this act expire by limitation 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:
   (a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or
   (b) Are in arrears in the payment for the support of one or more children,
are repealed by the Congress of the United States.
Senator Ratti moved the adoption of the amendment.
Remarks by Ratti.
(To be entered at a later date.)

Amendment adopted.
Senator Brooks moved that the bill be re-referred to the Committee on
Finance, upon return from reprint.
Motion carried.
Bill ordered reprinted, engrossed and to the Committee on Finance.

Senate Bill No. 203.
Bill read third time.
Remarks by Senators Dondero Loop, Buck, Hardy and Hansen.

SENATOR DONDERO LOOP:
(To be entered at a later date.)

SENATOR BUCK:
(To be entered at a later date.)

SENATOR DONDERO LOOP:
(To be entered at a later date.)

SENATOR HARDY:
(To be entered at a later date.)

SENATOR DONDERO LOOP:
(To be entered at a later date.)

SENATOR HARDY:
(To be entered at a later date.)

SENATOR HANSEN:
(To be entered at a later date.)

SENATOR DONDERO LOOP:
(To be entered at a later date.)

Roll call on Senate Bill No. 203:
YEAS—18.
NAYS—Buck, Hansen, Hardy—3.

Senate Bill No. 203 having received a constitutional majority,
Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 217.
Bill read third time.
Remarks by Senator Seevers Gansert.
(To be entered at a later date.)

Roll call on Senate Bill No. 217:
YEAS—21.
NAYS—None.
Senate Bill No. 217 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 229.
Bill read third time.
The following amendment was proposed by the Committee on Commerce and Labor:
Amendment No. 403.
SUMMARY—Revises provisions relating to the practice of pharmacy.
(BDR 54-823)
AN ACT relating to pharmacists; revising requirements governing the collaborative practice of pharmacy and collaborative drug therapy management; making certain provisions relating to communicable diseases and exposure to biological, radiological or chemical agents applicable to pharmacists; and providing other matters properly relating thereto.
Legislative Counsel’s Digest:
Existing law authorizes a pharmacist to engage in the collaborative practice of pharmacy or collaborative drug therapy management pursuant to a collaborative practice agreement entered into with a licensed practitioner who: (1) maintains an ongoing relationship with his or her patient; (2) obtains the informed, written consent of a patient that is referred to the pharmacist; and (3) practices within 100 miles of the primary location where the pharmacist practices in this State. (NRS 639.2623) Section 2 of this bill removes these requirements and instead (1) imposes certain requirements to ensure that the geographic distance between a practitioner and a pharmacist who enter into a collaborative practice agreement does not impair effective collaboration; and (2) prohibits a practitioner from entering into a collaborative practice agreement with a pharmacist that authorizes the pharmacist to engage in an activity that is outside the scope of practice of the practitioner. Section 2 additionally removes a prohibition on collaborative practice agreements for the management of controlled substances. Section 7 of this bill expressly authorizes a pharmacist to possess and administer a controlled substance pursuant to a collaborative practice agreement.
Sections 2 and 3 of this bill remove a requirement that a pharmacist obtain the consent of a patient before engaging in the collaborative practice of pharmacy or collaborative drug therapy management. Sections 1, 4 and 6 of this bill remove provisions limiting collaborative drug therapy management to patients who are in a medical facility or affiliated setting. Section 4 additionally prescribes requirements concerning the contents of written guidelines and protocols for collaborative drug therapy and removes the requirement that such guidelines and protocols must be approved by the Board. Sections 6 and 8 of this bill make conforming changes to reflect the removal of the requirement for such approval.
Existing law requires a provider of health care who knows of, or provides services to, a person who has or is suspected of having a communicable disease or of having suffered a drug overdose to report that fact to the appropriate health authority. (NRS 441A.150) Existing law also: (1) requires a provider of health care to take certain measures to cooperate with an investigation by the health authority concerning a case or suspected case of an infectious disease or exposure to a biological, radiological or chemical agent; and (2) authorizes the health authority to take certain actions against a provider of health care who has significantly contributed to a case of an infectious disease or exposure to a biological, radiological or chemical agent. (NRS 441A.165, 441A.169)

Section 5 of this bill provides that a pharmacist is a provider of health care for the purposes of these provisions.

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

Section 1. NRS 639.0124 is hereby amended to read as follows:

639.0124 “Practice of pharmacy” includes, but is not limited to, the:
1. Performance or supervision of activities associated with manufacturing, compounding, labeling, dispensing and distributing of a drug, including the receipt, handling and storage of prescriptions and other confidential information relating to patients.
2. Interpretation and evaluation of prescriptions or orders for medicine.
3. Participation in drug evaluation and drug research.
4. Advising of the therapeutic value, reaction, drug interaction, hazard and use of a drug.
5. Selection of the source, storage and distribution of a drug.
7. Interpretation of clinical data contained in a person’s record of medication.
8. Development of written guidelines and protocols in collaboration with a practitioner which authorize collaborative drug therapy management. The written guidelines and protocols must comply with NRS 639.2629.
9. Implementation and modification of drug therapy, administering drugs and ordering and performing tests in accordance with a collaborative practice agreement.

The term does not include the changing of a prescription by a pharmacist or practitioner without the consent of the prescribing practitioner, except as otherwise provided in NRS 639.2583.

Sec. 2. NRS 639.2623 is hereby amended to read as follows:

639.2623 1. [Except as otherwise provided in subsection 5, a] A pharmacist who has entered into a valid collaborative practice agreement.
may engage in the collaborative practice of pharmacy or collaborative drug therapy management at any location in this State.

2. To enter into a collaborative practice agreement, a practitioner must:
   (a) be licensed in good standing to practice his or her profession in this State;
   (b) agree to maintain an ongoing relationship with a patient who is referred by the practitioner to a pharmacist pursuant to a collaborative practice agreement for collaborative drug therapy management;
   (c) agree to obtain the informed, written consent from a patient who is referred by the practitioner to a pharmacist pursuant to a collaborative practice agreement for collaborative drug therapy management; and
   (d) except as otherwise provided in this paragraph, actively practice his or her profession within 100 miles of the primary location where the collaborating pharmacist practices in this State. A practitioner and pharmacist may submit a written request to the Board for an exemption from the requirements of this paragraph. The Board may grant such a request upon a showing of good cause.

3. A practitioner shall not enter into a collaborative practice agreement with a collaborating pharmacist if the geographic distance between the practitioner and the collaborating pharmacist prevents or limits effective collaboration in the delivery of care or treatment to patients.

4. Except as otherwise provided in this subsection, a practitioner shall not enter a collaborative practice agreement that includes diagnosis or initiating treatment unless the practitioner actively practices his or her profession in this State or provides those services using telehealth. The Board may grant a written request for an exemption from the requirements of this subsection for good cause shown.

5. A collaborative practice agreement must not grant a pharmacist the authority to engage in an activity that is outside the scope of the current practice of the practitioner.

6. A pharmacist who engages in the collaborative practice of pharmacy shall:
   (a) except as otherwise provided in paragraph (b), document any treatment or care provided to a patient pursuant to a collaborative practice agreement after providing such treatment or care in the medical record of the patient, on the chart of the patient or in a separate log book;
   (b) document in the medical record of the patient, on the chart of the patient or in a separate log book any decision or action concerning the management of drug therapy pursuant to a collaborative practice agreement after making such a decision or taking such an action;
   (c) maintain all records concerning the care or treatment provided to a patient pursuant to a collaborative practice agreement in written or electronic form for at least 7 years;
(d) Comply with all provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, the regulations adopted pursuant thereto, and all other federal and state laws and regulations concerning the privacy of information regarding health care; and

(e) Provide a patient with written notification of:

(1) Any test administered by the pharmacist and the results of such a test;
(2) The name of any drug or prescription filled and dispensed by the pharmacist to the patient; and
(3) The contact information of the pharmacist.

[4. A pharmacist shall obtain the informed, written consent of a patient before engaging in the collaborative practice of pharmacy on behalf of the patient. Such written consent must include, without limitation, a statement that the pharmacist:

(a) May initiate, modify or discontinue the medication of the patient pursuant to a collaborative practice agreement;
(b) Is not a physician, osteopathic physician, advanced practice registered nurse or physician assistant; and
(c) May not diagnose.

5. A practitioner may not enter into a collaborative practice agreement with a pharmacist for the management of controlled substances.

7. A pharmacy must not require a registered pharmacist, as a condition of employment, to enter into a collaborative practice agreement.

Sec. 3. NRS 639.2627 is hereby amended to read as follows:

639.2627 1. A collaborative practice agreement must be signed by each practitioner and pharmacist who enter into the agreement and submitted to the Board in written and electronic form. A collaborative practice agreement must include:

(a) A description of the types of decisions concerning the management of drug therapy that the pharmacist is authorized to make, which may include a specific description of the diseases and drugs for which the pharmacist is authorized to manage drug therapy;

(b) A detailed explanation of the procedures that the pharmacist must follow when engaging in the collaborative practice of pharmacy, including, without limitation, the manner in which the pharmacist must document decisions concerning treatment and care in accordance with subsection 6 of NRS 639.2623, report such decisions to the practitioner and receive feedback from the practitioner;

(c) The procedure by which the pharmacist will notify the practitioner of an adverse event concerning the health of the patient;

(d) The procedure by which the practitioner will provide the pharmacist with a diagnosis of the patient and any other medical information necessary to carry out the patient’s drug therapy management;

(e) A description of the means by which the practitioner will monitor clinical outcomes of a patient and intercede when necessary to protect the
health of the patient or accomplish the goals of the treatment prescribed for the patient;

(f) Authorization for the practitioner to override the agreement if necessary to protect the health of the patient or accomplish the goals of the treatment prescribed for the patient;

(g) Authorization for either party to terminate the agreement by written notice to the other party, which must include, without limitation, written notice to the patient that informs the patient of the procedures by which he or she may continue drug therapy;

(h) The effective date of the agreement;

(i) The date by which a review must be conducted pursuant to subsection 2 for the renewal of the agreement, which must not be later than the expiration date of the agreement; and

(j) The address of the location where the records described in subsection 4 of NRS 639.2623 will be maintained.

Sec. 2. A collaborative practice agreement must expire not later than 1 year after the date on which the agreement becomes effective. The parties to a collaborative practice agreement may renew the agreement after reviewing the agreement and making any necessary revisions.

Sec. 4. NRS 639.2629 is hereby amended to read as follows:

639.2629 1. Written guidelines and protocols developed by a registered pharmacist in collaboration with a practitioner which authorize collaborative drug therapy management:

(a) May authorize a pharmacist to order and use the findings of laboratory tests and examinations.

(b) May provide for collaborative drug therapy management for a patient receiving care:

(1) In a licensed medical facility; or

(2) If developed to ensure continuity of care for a patient, in any setting that is affiliated with a medical facility where the patient is receiving care. A pharmacist who modifies a drug therapy of a patient receiving care in a setting that is affiliated with a medical facility shall, within 72 hours after initiating or modifying the drug therapy, provide written notice of the initiation or modification of the drug therapy to the collaborating practitioner or enter the appropriate information concerning the drug therapy in an electronic patient record system shared by the pharmacist and the collaborating practitioner.

(c) Must state the conditions under which a prescription of a practitioner relating to the drug therapy of a patient may be changed by the pharmacist without a subsequent prescription from the practitioner.

(d) Must include, without limitation:
(a) A description of the types of decisions concerning the management of drug therapy that the pharmacist is authorized to make, including, without limitation:

1. A specific description of the diseases, drugs and categories of drugs covered by the guidelines; and

2. The types of decisions that the pharmacist is authorized to make for each disease, drug or category of drugs;

(b) The training that the pharmacist is required to complete;

(c) The procedures that the pharmacist is required to follow when initiating or modifying drug therapy or making other therapeutic decisions, including, without limitation:

1. Criteria that the pharmacist is required to use when making therapeutic decisions; and

2. Procedures for documenting therapeutic decisions and reporting such decisions to the practitioner; and

(d) Procedures for the practitioner to provide feedback concerning therapeutic decisions to each pharmacist who is a party to the agreement.

2. The written guidelines established pursuant to subsection 1 and any modifications to those guidelines must be approved by the Board.

Sec. 5. NRS 441A.110 is hereby amended to read as follows:

441A.110 “Provider of health care” means a physician, nurse or veterinarian licensed in accordance with state law, [or] a physician assistant licensed pursuant to chapter 630 or 633 of NRS [or] a pharmacist registered pursuant to chapter 639 of NRS.

Sec. 6. NRS 453.026 is hereby amended to read as follows:

453.026 “Agent” means a pharmacist who cares for a patient of a prescribing practitioner [in a medical facility or in a setting that is affiliated with a medical facility where the patient is receiving care] in accordance with written guidelines and protocols developed pursuant to NRS 639.2629 or a collaborative practice agreement, as defined in NRS 639.0052, a licensed practical nurse or registered nurse who cares for a patient of a prescribing practitioner in a medical facility or an authorized person who acts on behalf of or at the direction of and is employed by a manufacturer, distributor, dispenser or prescribing practitioner. The term does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

Sec. 7. NRS 453.375 is hereby amended to read as follows:

453.375 1. A controlled substance may be possessed and administered by the following persons:
(a) A practitioner.
(b) A registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a physician, physician assistant, dentist, podiatric physician or advanced practice registered nurse, or pursuant to a chart order, for administration to a patient at another location.
(c) A paramedic:
   (1) As authorized by regulation of:
       (I) The State Board of Health in a county whose population is less than 100,000; or
       (II) A county or district board of health in a county whose population is 100,000 or more; and
   (2) In accordance with any applicable regulations of:
       (I) The State Board of Health in a county whose population is less than 100,000;
       (II) A county board of health in a county whose population is 100,000 or more; or
       (III) A district board of health created pursuant to NRS 439.362 or 439.370 in any county.
(d) A respiratory therapist, at the direction of a physician or physician assistant.
(e) A medical student, student in training to become a physician assistant or student nurse in the course of his or her studies at an accredited college of medicine or approved school of professional or practical nursing, at the direction of a physician or physician assistant and:
   (1) In the presence of a physician, physician assistant or a registered nurse; or
   (2) Under the supervision of a physician, physician assistant or a registered nurse if the student is authorized by the college or school to administer the substance outside the presence of a physician, physician assistant or nurse.
   A medical student or student nurse may administer a controlled substance in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer it personally.
(f) An ultimate user or any person whom the ultimate user designates pursuant to a written agreement.
(g) Any person designated by the head of a correctional institution.
(h) A veterinary technician at the direction of his or her supervising veterinarian.
(i) In accordance with applicable regulations of the State Board of Health, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.
(j) In accordance with applicable regulations of the State Board of Pharmacy, an animal control officer, a wildlife biologist or an employee...
designated by a federal, state or local governmental agency whose duties include the control of domestic, wild and predatory animals.

(k) A person who is enrolled in a training program to become a paramedic, respiratory therapist or veterinary technician if the person possesses and administers the controlled substance in the same manner and under the same conditions that apply, respectively, to a paramedic, respiratory therapist or veterinary technician who may possess and administer the controlled substance, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

(l) A registered pharmacist pursuant to written guidelines and protocols developed pursuant to NRS 639.2629 or a collaborative practice agreement, as defined in NRS 639.0052.

2. As used in this section, “accredited college of medicine” means:

(a) A medical school that is accredited by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges or their successor organizations; or

(b) A school of osteopathic medicine, as defined in NRS 633.121.

Sec. 8. NRS 454.213 is hereby amended to read as follows:

454.213  1. Except as otherwise provided in NRS 454.217, a drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by:

(a) A practitioner.

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

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

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

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

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

(e) A medication aide - certified at a designated facility under the supervision of an advanced practice registered nurse or registered nurse and in accordance with standard protocols developed by the State Board of Nursing.

As used in this paragraph, “designated facility” has the meaning ascribed to it in NRS 632.0145.
(f) Except as otherwise provided in paragraph (g), an advanced emergency medical technician or a paramedic, as authorized by regulation of the State Board of Pharmacy and in accordance with any applicable regulations of:
   (1) The State Board of Health in a county whose population is less than 100,000;
   (2) A county board of health in a county whose population is 100,000 or more; or
   (3) A district board of health created pursuant to NRS 439.362 or 439.370 in any county.
   (g) An advanced emergency medical technician or a paramedic who holds an endorsement issued pursuant to NRS 450B.1975, under the direct supervision of a local health officer or a designee of the local health officer pursuant to that section.
   (h) A respiratory therapist employed in a health care facility. The therapist may possess and administer respiratory products only at the direction of a physician.
   (i) A dialysis technician, under the direction or supervision of a physician or registered nurse only if the drug or medicine is used for the process of renal dialysis.
   (j) A medical student or student nurse in the course of his or her studies at an accredited college of medicine or approved school of professional or practical nursing, at the direction of a physician and:
      (1) In the presence of a physician or a registered nurse; or
      (2) Under the supervision of a physician or a registered nurse if the student is authorized by the college or school to administer the drug or medicine outside the presence of a physician or nurse.
   ➤ A medical student or student nurse may administer a dangerous drug in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer it personally.
   (k) Any person designated by the head of a correctional institution.
   (l) An ultimate user or any person designated by the ultimate user pursuant to a written agreement.
   (m) A holder of a license to engage in radiation therapy and radiologic imaging issued pursuant to chapter 653 of NRS, at the direction of a physician and in accordance with any conditions established by regulation of the Board.
   (n) A chiropractic physician, but only if the drug or medicine is a topical drug used for cooling and stretching external tissue during therapeutic treatments.
   (o) A physical therapist, but only if the drug or medicine is a topical drug which is:
      (1) Used for cooling and stretching external tissue during therapeutic treatments; and
      (2) Prescribed by a licensed physician for:
(I) Iontophoresis; or
(II) The transmission of drugs through the skin using ultrasound.

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

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

(r) In accordance with applicable regulations of the Board, a registered pharmacist who:
   (1) Is trained in and certified to carry out standards and practices for immunization programs;
   (2) Is authorized to administer immunizations pursuant to written protocols from a physician; and
   (3) Administers immunizations in compliance with the “Standards for Immunization Practices” recommended and approved by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(s) A registered pharmacist pursuant to written guidelines and protocols developed [and approved] pursuant to NRS 639.2629 or a collaborative practice agreement, as defined in NRS 639.0052.

(t) A person who is enrolled in a training program to become a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, advanced emergency medical technician, paramedic, respiratory therapist, dialysis technician, physical therapist or veterinary technician or to obtain a license to engage in radiation therapy and radiologic imaging pursuant to chapter 653 of NRS if the person possesses and administers the drug or medicine in the same manner and under the same conditions that apply, respectively, to a physician assistant licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, advanced emergency medical technician, paramedic, respiratory therapist, dialysis technician, physical therapist, veterinary technician or person licensed to engage in radiation therapy and radiologic imaging who may possess and administer the drug or medicine, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

(u) A medical assistant, in accordance with applicable regulations of the:
   (1) Board of Medical Examiners, at the direction of the prescribing physician and under the supervision of a physician or physician assistant.
   (2) State Board of Osteopathic Medicine, at the direction of the prescribing physician and under the supervision of a physician or physician assistant.

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

Sec. 9. 1. This section becomes effective upon passage and approval.
2. Sections 1 to 8, inclusive, of this act become effective:
   (a) Upon passage and approval for the purpose of adopting any regulations
   and performing any other preparatory administrative tasks that are necessary
   to carry out the provisions of this act; and
   (b) October 1, 2021, for all other purposes.

   Senator Spearman moved the adoption of the amendment.

   Remarks by Senator Spearman.
   (To be entered at a later date.)

   Amendment adopted.
   Bill read third time.
   Remarks by Senators Ratti, Hardy and Pickard.

   SENATOR RATTI:
   (To be entered at a later date.)

   SENATOR HARDY:
   (To be entered at a later date.)

   SENATOR PICKARD:
   (To be entered at a later date.)

   SENATOR RATTI:
   (To be entered at a later date.)

   SENATOR PICKARD:
   (To be entered at a later date.)

   SENATOR RATTI:
   (To be entered at a later date.)

   Roll call on Senate Bill No. 229:
   YEAS—17.
   NAYS—Buck, Goicoechea, Hardy, Pickard—4.

   Senate Bill No. 229 having received a constitutional majority,
   Madam President declared it passed, as amended.
   Bill ordered transmitted to the Assembly.

   Senate Bill No. 253.
   Bill read third time.
   Remarks by Senator Settelmeyer.
   (To be entered at a later date.)

   Roll call on Senate Bill No. 253:
   YEAS—18.
   NAYS—Harris, Ratti, Scheible—3.

   Senate Bill No. 253 having received a constitutional majority,
   Madam President declared it passed, as amended.
   Bill ordered transmitted to the Assembly.

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

Senate in recess at 3:27 p.m.

SENATE IN SESSION

At 3:29 p.m.
President Marshall presiding.
Quorum present.

Senate Bill No. 254.
Bill read third time.
Remarks by Senators Neal, Kieckhefer and Pickard.

SENATOR NEAL:
(To be entered at a later date.)

SENATOR KIECKHEFER:
(To be entered at a later date.)

SENATOR PICKARD:
(To be entered at a later date.)

SENATOR NEAL:
(To be entered at a later date.)

SENATOR PICKARD:
(To be entered at a later date.)

Roll call on Senate Bill No. 254:
YEAS—12.

Senate Bill No. 254 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 259.
Bill read third time.
The following amendment was proposed by the Committee on Growth and Infrastructure:
Amendment No. 123.
SUMMARY—Revises provisions relating to [operators of] tow cars.
(BDR 58-179)

AN ACT relating to tow cars; requiring the Nevada Transportation Authority to provide certain [annual trainings to a holder of a certificate of public convenience and necessity] training; requiring [a holder of a certificate of public convenience and necessity] certain employees of the Authority and owners and operators of tow cars to attend such training; and providing other matters properly relating thereto.
Legislative Counsel’s Digest:

Existing law, with certain exceptions, requires an operator of a tow car to obtain a certificate of public convenience and necessity from the Nevada Transportation Authority before the operator provides certain services. Existing law also requires an operator of a tow car to comply with the provisions and regulations governing motor carriers. (NRS 706.4463) Under existing law, the Authority is required to: (1) employ compliance enforcement officers to perform enforcement activities for the Authority; and (2) adopt regulations setting forth the training required to be completed by such officers. (NRS 706.176, 706.178) Section 1 of this bill requires the Authority to provide each year to a holder of a certificate of public convenience and necessity training each year on any provision or regulation governing the regulation and licensing of motor carriers that was added, revised or adopted [since the last training was provided] in the immediately preceding year. Section 1 authorizes the Authority not to provide such training in any year if no such provisions were added or revised or regulations were [added or] adopted [since the last training was provided] in the immediately preceding year. Section 1 requires a holder of a certificate of public convenience and necessity, a compliance enforcement officer employed by the Authority, and any owner or operator of a tow car under the jurisdiction of the Authority, to attend such training [when] annually if it is provided that year. Section 1.3 of this bill makes a conforming change to indicate the placement of section 1 in the Nevada Revised Statutes. Section 1.5 of this bill makes a conforming change relating to the additional training required in section 1 for compliance enforcement officers employed by the Authority. Section 7 of this bill requires the Authority to provide the first of such trainings not later than October 1, 2022.

Sections 2-6 of this bill make conforming changes by indicating the placement of section 1 in the Nevada Revised Statutes. Additionally, sections 5 and 6 of this bill provide that an operator of a tow car who is requested to tow a vehicle pursuant to an ordinance in certain counties and cities has to comply with the provisions of section 1. Section 2 of this bill requires the Authority to investigate a complaint brought by any person who claims that section 1 has been violated. Section 4 of this bill provides that the provisions of section 1 do not apply to certain automobile wreckers.

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, the Authority shall provide each year to a holder of a certificate of public convenience and necessity [training each year on [any new] :
   (a) Any addition to or revision of the provisions [added to] of NRS 706.011 to 706.791, inclusive; or
(b) Any regulations adopted by the Authority pursuant to those provisions.

2. If no new addition or revision was made to the provisions of NRS 706.011 to 706.791, inclusive, or if no regulations were adopted by the Authority pursuant to those provisions in a year, the Authority may, for the immediately succeeding year, choose not to provide the training required by subsection 1.

3. A holder of a certificate of public convenience and necessity compliance enforcement officer employed by the Authority and an owner or operator of a tow car subject to the jurisdiction of the Authority shall attend the training prescribed in subsection 1 annually unless the Authority chooses not to provide the training in accordance with subsection 2.

4. The Authority shall provide the training required by subsection 1 uniformly with respect to content throughout the State to all persons who are required to attend the training.

5. The Authority may adopt such regulations as are necessary to carry out the provisions of this section.

5. As used in this section, "new" means any provision or regulation that was added or adopted since the last training that was provided by the Authority.

Sec. 1.3. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, and section 1 of this act, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.

Sec. 1.5. NRS 706.178 is hereby amended to read as follows:

706.178 In addition to the training required pursuant to section 1 of this act, the Authority shall adopt regulations setting forth the training which a compliance enforcement officer employed by the Authority pursuant to NRS 706.176 must complete, including, without limitation, training in commercial vehicle safety inspections provided by the Nevada Highway Patrol.

Sec. 2. NRS 706.286 is hereby amended to read as follows:

706.286 1. When a complaint is made against any fully regulated carrier or operator of a tow car by any person that:

(a) Any of the rates, tolls, charges or schedules, or any joint rate or rates assessed by any fully regulated carrier or by any operator of a tow car for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle are in any respect unreasonable or unjustly discriminatory;

(b) Any of the provisions of NRS 706.444 to 706.453, inclusive, and section 1 of this act have been violated;

(c) Any regulation, measurement, practice or act directly relating to the transportation of persons or property, including the handling and storage of
that property, is, in any respect, unreasonable, insufficient or unjustly discriminatory, or

(d) Any service is inadequate,

the Authority shall investigate the complaint. After receiving the complaint, the Authority shall give a copy of it to the carrier or operator of a tow car against whom the complaint is made. Within a reasonable time thereafter, the carrier or operator of a tow car shall provide the Authority with its written response to the complaint according to the regulations of the Authority.

2. If the Authority determines that probable cause exists for the complaint, it shall order a hearing thereof, give notice of the hearing and conduct the hearing as it would any other hearing.

3. No order affecting a rate, toll, charge, schedule, regulation, measurement, practice or act complained of may be entered without a formal hearing unless the hearing is dispensed with as provided in NRS 706.2865 (Deleted by amendment.)

Sec. 3. [NRS 706.444 is hereby amended to read as follows:

706.444 As used in NRS 706.444 to 706.452, inclusive, and section 1 of this act, “insurance company” means any entity authorized to provide insurance for motor vehicles in this State, including, without limitation, a captive insurer, as defined in NRS 694C.060, and a person qualified as a self-insurer, pursuant to NRS 485.380 (Deleted by amendment.)

Sec. 4. [NRS 706.453 is hereby amended to read as follows:

706.453 The provisions of NRS 706.444 to 706.451, inclusive, and section 1 of this act do not apply to automobile wreckers who are licensed pursuant to chapter 487 of NRS (Deleted by amendment.)

Sec. 5. [NRS 244.3605 is hereby amended to read as follows:

244.3605 1. Notwithstanding the provisions of NRS 244.360 and 244.3601, the board of county commissioners of a county may, to abate public nuisances, adopt by ordinance procedures pursuant to which the board or its designee may order an owner of property within the county to:

(a) Repair, safeguard or eliminate a dangerous structure or condition;

(b) Clear debris, rubbish, refuse, litter, garbage, abandoned or junk vehicles or junk appliances which are not subject to the provisions of chapter 459 of NRS;

(c) Clear weeds and noxious plant growth or

(d) Repair, clear, correct, rectify, safeguard or eliminate any other public nuisance as defined in the ordinance adopted pursuant to this section, to protect the public health, safety and welfare of the residents of the county.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, of the existence on the owner’s property of a public nuisance set forth in subsection 1 and the date by which the owner must abate the public nuisance.
2. If the public nuisance is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the public nuisance.

3. Afforded an opportunity for a hearing before the designee of the board relating to the order of abatement and an appeal of that decision either to the board or to a court of competent jurisdiction, as determined by the ordinance adopted pursuant to subsection 1.

4. Afforded an opportunity for a hearing before the designee of the board relating to the imposition of civil penalties and an appeal of that decision either to the board or to a court of competent jurisdiction, as determined by the ordinance adopted pursuant to subsection 1.

5. Provide that the date specified in the notice by which the owner must abate the public nuisance is tolled for the period during which the owner requests a hearing and receives a decision.

6. Provide the manner in which the county will recover money expended to abate the public nuisance on the property if the owner fails to abate the public nuisance.

7. Provide for civil penalties for each day that the owner did not abate the public nuisance after the date specified in the notice by which the owner was required to abate the public nuisance.

8. In any county whose population is 700,000 or more, an ordinance adopted pursuant to subsection 1 may authorize the county to request the operator of a tow car to abate a public nuisance by towing abandoned or junk vehicles which are not concealed from ordinary public view by means of inside storage, suitable fencing, opaque covering, trees, shrubbery or other means if the conditions of subsection 4 are satisfied. The operator of a tow car requested to tow a vehicle pursuant to this section must comply with the provisions of NRS 706.444 to 706.453, inclusive, and section 1 of this act.

9. The county may abate the public nuisance on the property and may recover the amount expended by the county for labor and materials used to abate the public nuisance or request abatement by the operator of a tow car pursuant to subsection 3 if:

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the public nuisance on the owner's property within the period specified in the notice;

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the public nuisance within the period specified in the order; or

(c) The board or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the public nuisance within the period specified in the order.

5. In addition to any other reasonable means for recovering money expended by the county to abate the public nuisance and, except as otherwise
provided in subsection 6, for collecting civil penalties imposed pursuant to the ordinance adopted pursuant to subsection 1, the board or its designee may make the expense and civil penalties a special assessment against the property upon which the public nuisance is located, and this special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

6. Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 5 by the board or its designee unless:

(a) At least 12 months have elapsed after the date specified in the notice by which the owner must abate the public nuisance or the date specified in the order of the board or court by which the owner must abate the public nuisance, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than $5,000.

7. If a designee of the board imposes a special assessment pursuant to subsection 5, the designee shall submit a written report to the board at least once each calendar quarter that sets forth, for each property against which such an assessment has been imposed:

(a) The street address or assessor’s parcel number of the property;

(b) The name of each owner of record of the property as of the date of the assessment; and

(c) The total amount of the assessment, stating the amount assessed for the expense of abatement and any amount assessed for civil penalties.

8. As used in this section, “dangerous structure or condition” means a structure or condition that is a public nuisance which may cause injury to or endanger the health, life, property or safety of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) Does not meet the requirements of a code or regulation adopted pursuant to NRS 244.3675 with respect to minimum levels of health or safety; or

(b) Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the board of county commissioners of a county, the violation of which is designated by the board as a public nuisance in the ordinance, rule or regulation.

Sec. 6. [NRS 268.4122 is hereby amended to read as follows:

268.4122  1. The governing body of a city may adopt by ordinance procedures pursuant to which the governing body or its designee may order an owner of property within the city to:

(a) Repair, safeguard or eliminate a dangerous structure or condition;

(b) Clear debris, rubbish, refuse, litter, garbage, abandoned or junk vehicles or junk appliances which are not subject to the provisions of chapter 459 of NRS; or

(c) Clear weeds and noxious plant growth,
to protect the public health, safety, and welfare of the residents of the city.

2. An ordinance adopted pursuant to subsection 1 must:
   (a) Contain procedures pursuant to which the owner of the property is:
       (1) Sent a notice, by certified mail, return receipt requested, of the existence on the property of a condition set forth in subsection 1 and the date by which the owner must abate the condition.
       (2) If the condition is not an immediate danger to the public health, safety, or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the condition.
       (3) Afforded an opportunity for a hearing before the designee of the governing body relating to the order of abatement and an appeal of that decision. The ordinance must specify whether all such appeals are to be made to the governing body or to a court of competent jurisdiction.
       (4) Afforded an opportunity for a hearing before the designee of the governing body relating to the imposition of civil penalties and an appeal of that decision. The ordinance must specify whether all such appeals are to be made to the governing body or to a court of competent jurisdiction.
       (b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.
       (c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.
       (d) Provide for civil penalties for each day that the owner did not abate the condition after the date specified in the notice by which the owner was requested to abate the condition.
       (e) If the county board of health, city board of health or district board of health in whose jurisdiction the incorporated city is located has adopted a definition of garbage, use the definition of garbage adopted by the county board of health, city board of health or district board of health, as applicable.

3. In any county whose population is 700,000 or more, an ordinance adopted pursuant to subsection 1 may authorize the city to request the operator of a tow car to abate a condition by towing abandoned or junk vehicles which are not concealed from ordinary public view by means of inside storage, suitable fencing, opaque covering, trees, shrubbery or other means if the governing body or its designee has directed the abatement of the condition pursuant to subsection 4. The operator of a tow car requested to tow a vehicle by a city pursuant to this section must comply with the provisions of NRS 706.444 to 706.453, inclusive, and section 1 of this act.

4. The governing body or its designee may direct the city to abate the condition on the property and may recover the amount expended by the city for labor and materials used to abate the condition or request abatement by the operator of a tow car pursuant to subsection 3 if:
(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition on the property within the period specified in the notice. 
(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition within the period specified in the order; or 
(c) The governing body or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the condition within the period specified in the order.

5. In addition to any other reasonable means for recovering money expended by the city to abate the condition and, except as otherwise provided in subsection 6, for collecting civil penalties imposed pursuant to the ordinance adopted pursuant to subsection 1, the governing body or its designee may make the expense and civil penalties a special assessment against the property upon which the condition is or was located. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

6. Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 5 by the governing body or its designee unless:
   (a) At least 12 months have elapsed after the date specified in the notice by which the owner must abate the condition or the date specified in the order of the governing body or court by which the owner must abate the condition, whichever is later; 
   (b) The owner has been billed, served or otherwise notified that the civil penalties are due; and 
   (c) The amount of the uncollected civil penalty is more than $5,000.

7. If a designee of the governing body imposes a special assessment pursuant to subsection 5, the designee shall submit a written report to the governing body at least once each calendar quarter that sets forth, for each property against which such an assessment has been imposed:
   (a) The street address or assessor’s parcel number of the property; 
   (b) The name of each owner of record of the property as of the date of the assessment; and 
   (c) The total amount of the assessment, stating the amount assessed for the expense of abatement and any amount assessed for civil penalties.

8. As used in this section, “dangerous structure or condition” means a structure or condition that may cause injury to or endanger the health, life, property, safety or welfare of the general public or the occupants, if any, of the
real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) Does not meet the requirements of a code or regulation adopted pursuant to NRS 268.412 with respect to minimum levels of health, maintenance or safety or

(b) Violates an ordinance, rule or regulation regulating health and safety, enacted, adopted or passed by the governing body of a city, the violation of which is designated as a nuisance in the ordinance, rule or regulation.] (Deleted by amendment.)

Sec. 7. Not later than October 1, 2022, the Nevada Transportation Authority shall provide to [a holder of a certificate of public convenience and necessity] compliance enforcement officers employed by the Nevada Transportation Authority and owners and operators of tow cars subject to the jurisdiction of the Nevada Transportation Authority training on the provisions of NRS 706.011 to 706.791, inclusive, and any regulations adopted by the Nevada Transportation Authority pursuant thereto. Such training must conform to the requirements of section 1 of this act and any regulations adopted by the Nevada Transportation Authority pursuant thereto.

Sec. 8. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 7, inclusive, of this act become effective:

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

(b) On October 1, 2021, for all other purposes.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

(To be entered at a later date.)

Amendment adopted.

Bill read third time.

Remarks by Senator Denis.

(To be entered at a later date.)

Roll call on Senate Bill No. 259:
YEAS—21.
NAYS—None.

Senate Bill No. 259 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Dennis.

(To be entered at a later date.)

Roll call on Senate Bill No. 260:
YEAS—21.
NAYS—None.

Senate Bill No. 260 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

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

Senate in recess at 3:38 p.m.

SENATE IN SESSION

At 3:40 p.m.
President Marshall presiding.
Quorum present.

Senate Bill No. 283.
Bill read third time.

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

Amendment No. 249.

SUMMARY—Revises provisions relating to local improvements.

AN ACT relating to local improvements; authorizing a municipality to create a district for certain qualified improvement projects; setting forth the requirements for creating such a district; authorizing certain financing to pay for a qualified improvement project in such a district; making various other changes relating to local improvements; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law sets forth the procedures for the governing body of a municipality to create a district to finance certain energy efficiency improvement projects and renewable energy projects. (NRS 271.6312-271.6325) This bill revises these procedures.

Section 15 of this bill authorizes the governing body of a municipality to create a district to finance or refinance one of more qualified improvement projects. Section 6 of this bill defines a qualified improvement project as an energy efficiency improvement project, a renewable energy project, a resiliency project and a water efficiency improvement project. Sections 4 and 7-9 of this bill, respectively, define the terms “energy efficiency improvement project,” “renewable energy project,” “resiliency project” and a “water efficiency improvement project.”

Section 16 of this bill provides that the governing body may create a district only under certain circumstances, including if: (1) the governing body makes a finding that the creation of the district serves certain public purposes; and (2) the governing body adopts by resolution certain procedures for the creation
and administration of the district. [Section 11 of this bill requires that each owner of a tract on which a qualified improvement project will be located enter into a voluntary assessment agreement in which the owner consents in writing to the location of the project on the tract, the levy of an assessment against the tract to pay the financing set forth in the financing agreement and the placement of a lien on the property. [Section] Sections 5 and 5.5 of this bill define, respectively, the terms “financing agreement” and “property owner.”]

Section 12 of this bill provides that a lien must be filed on the tract and sets forth the priority of such a lien.

Section 17 of this bill provides that: (1) construction of a qualified improvement project must be completed through independent contracts with contractors licensed in Nevada; (2) the municipality is not responsible for the construction or any delays or defects; and (3) the laws relating to public bidding, public works or public procurement are not applicable to the construction of a qualified improvement project.

Section 18 of this bill requires that the resolution that specifies the procedures for the creation and administration of a district include the approval of a program guide that, without limitation: (1) sets forth the forms for certain agreements; (2) prohibits any financing agreement which exceeds the useful life of the qualified improvement; (3) describes the application and eligibility requirements for real property to be included in the district; and (4) describes the requirements to be a capital provider.

Section 10 of this bill requires, with certain exceptions, that a qualified improvement project be financed or refinanced only through an assessment on the real property. [Section 11 of this bill makes a conforming change to existing provisions relating to a district.] Section 11 of this bill provides that while the governing body [must approve the amount of] imposes the assessment, the capital provider is solely responsible for the billing, collection and enforcement of the assessment. Section 3 of this bill defines the term “capital provider.”

Section 12 of this bill requires the municipality to record a notice of assessment and assessment lien on the real property and sets forth the priority of such a lien.

Section 13 of this bill authorizes, under certain circumstances, a person who is leasing real property within a district to enter into a financing agreement with a capital provider for a qualified improvement project.

Section 13.5 of this bill provides that: (1) a municipality and its governing body, officers and employees shall not be liable for any actions taken pursuant to existing law providing for the creation of a district and sections 2-13.5 of this bill, except in cases of gross negligence, recklessness or willful misconduct; (2) a municipality shall not use public funds to fund an assessment imposed on a property owner to repay direct financing, nor pledge the full faith
and credit of a local government for such purposes; and (3) a municipality that
establishes a qualified improvement district may impose a fee to recover the
actual administrative costs from participating property owners.

Section 19 of this bill provides that the governing body of a municipality
that created a district pursuant to NRS 271.6312 to 271.6325, inclusive, before
October 1, 2021, may use the provisions of this bill in the district but that this
bill does not affect any financing, billing, collection or enforcement of
financing of any existing project in the district.

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

Section 1. Chapter 271 of NRS is hereby amended by adding thereto the
provisions set forth as sections 2 to 13.5, inclusive, of this act.

Sec. 2. As used in NRS 271.6312 to 271.6325, inclusive, and sections 2 to
13.5, inclusive, of this act, unless the context otherwise requires, the
words and terms defined in sections 3 to 9, inclusive, of this act have the
meanings ascribed to them in those sections.

Sec. 3. “Capital provider” means any private entity or the designee,
successor or assign of the private entity that provides financing or refinancing
for a qualified improvement project pursuant to the provisions of
NRS 271.6312 to 271.6325, inclusive, and sections 2 to 13.5, inclusive, of this act.

Sec. 4. “Energy efficiency improvement project” means the installation
or modification of one or more energy efficiency improvements that decrease
or support the decrease of energy consumption or demand for energy through
the use of efficiency technologies, products or activities and incidentals which
are necessary, useful or desirable for any such improvements and which
installation or modification has a useful life of not less than 10 years.

Sec. 5. “Financing agreement” means the contract pursuant to which a
property owner or lessee, as applicable, agrees to repay the capital provider
for financing or refinancing a qualified improvement project, including,
without limitation, any finance charges, fees, debt servicing, interest, penalties
and any other provision relating to the treatment of prepayment or partial
payment, billing, collection and enforcement of the assessment and lien
securing the financing.

Sec. 5.5. “Property owner” means the owner of record of the tract on
which a qualified improvement project is installed.

Sec. 6. “Qualified improvement project” means one or more of the
following projects, installed in an existing structure or in new construction,
performed pursuant to NRS 271.6312 to 271.6325, inclusive, and sections 2 to
13.5, inclusive, of this act:
1. Energy efficiency improvement project.
2. Renewable energy project.
3. Resiliency project.
4. Water efficiency improvement project.
Sec. 7. “Renewable energy project” means any improvement to real property, and facilities and equipment used to generate electricity from renewable energy to offset customer load in whole or in part on the real property, or to support the production of renewable energy including, without limitation, micro-grids, energy storage and any other device or interacting group of products or devices on the customer’s side of the meter that generates electricity or provides thermal energy, and all appurtenances and incidentals necessary, useful or desirable for any such improvements, facilities and equipment, and which improvement has a useful life of not less than 10 years.

Sec. 8. “Resiliency project” means a qualified improvement to real property, facilities or equipment with a useful life of not less than 10 years that:

1. Increases a building’s structural resiliency, indoor air quality, wind resistance or fire resistance and which improvement has a useful life of not less than 10 years for seismic events;
2. Improves indoor air quality;
3. Improves wind and fire resistance;
4. Improves stormwater quality or reduces on-site or off-site risk of flash flooding;
5. Improves or enhances the ability of a building to withstand an electrical outage;
6. Reduces or mitigates the urban heat island effect or the effects of extreme heat;
7. Reduces any other environmental hazard identified by a municipality; or
8. Enhances the surrounding environment in which the real property is located.

Sec. 9. “Water efficiency improvement project” means an improvement to real property that is designed to reduce the water consumption of the real property.

Sec. 10. 1. Except as otherwise provided in this section, a qualified improvement project must be financed or refinanced only through an assessment on the real property.

2. In addition to, but not in lieu of an assessment, direct financing from a capital provider, the governing body may issue bonds and warrants to pay a portion of a qualified improvement project but any such bonds or warrants:
   (a) Shall not constitute the debt or indebtedness of the municipality within the meaning of any provision or limitation of the Constitution of the State of Nevada or statute;
   (b) Shall not be secured by a pledge of the general credit or taxing power of the municipality or by the surplus and deficiency fund established pursuant to NRS 271.428; and
   (c) Shall not be used in furtherance of or in support of direct financing from a capital provider.
Sec. 11. 1. While the governing body must approve the amount of an assessment to impose an assessment for a qualified improvement project, the municipality must enter into a voluntary written assessment agreement with a property owner whereby the property owner consents in writing that an assessment will be imposed on the real property to repay the capital provider for the qualified improvement project and an assessment lien will be placed on the real property. Each voluntary assessment agreement must describe the tract to be assessed and the qualified improvements included in the qualified improvement project that are financed or refinanced by the capital provider.

2. Each voluntary assessment agreement and any amendment, thereto, must be recorded in the office of the county recorder and, once recorded, is binding on the owner who signed the voluntary assessment agreement and any other person who holds any interest in the tract to which the voluntary assessment agreement relates.

3. A municipality must assign the assessment and assessment lien to the capital provider. The capital provider is solely responsible for the billing, collection and the enforcement of an assessment imposed on real property pursuant to NRS 271.6312 to 271.6325, inclusive, and sections 2 to 13.5, inclusive, of this act.

4. Delinquent payment of an assessment will result in the interest and penalties set forth in the financing agreement between the capital provider and the owner of real property.

5. Enforcement of a delinquent payment shall be by judicial foreclosure in the manner of a mortgage or deed of trust.

6. Assessments not yet due must not be accelerated or eliminated by foreclosure. In the event of foreclosure, any outstanding or delinquent assessments must be satisfied along with the payment of any delinquent ad valorem taxes.

Sec. 12. 1. A municipality shall execute and record a notice of assessment and assessment lien on the real property on which an assessment is imposed pursuant to the provisions of NRS 271.6312 to 271.6325, inclusive, and sections 2 to 13.5, inclusive, of this act. The notice of assessment and assessment lien must include, without limitation:

(a) The legal description of the real property;
(b) The name of each property owner;
(c) The date on which the lien was created;
(d) The principal amount of the lien;
(e) The terms and length of the lien; and
(f) A copy of the voluntary assessment agreement entered into between the municipality and the property owner pursuant to section 11 of this act.

2. A lien placed upon real property by a capital provider for a qualified improvement project, notwithstanding the provisions of any other statute to the contrary, an assessment and assessment lien:
(a) Is [first and prior] coequal with the latest lien [on the real property] on which the assessment is imposed for a qualified improvement project, effective on the date on which the notice of assessment is recorded by the capital provider until the time that all terms of the financing agreement have been satisfied, thereon to secure the payment of general taxes.

(b) Has the same priority as a lien for ad valorem taxes.

(c) Runs with the land and any portion of the assessment that is due pursuant to the terms of the financing agreement must not be accelerated or eliminated by foreclosure of a lien for ad valorem taxes.

(d) Must not be contested after the lien is recorded pursuant to this section on the basis that the project is not a qualified improvement project or for any procedural or substantive irregularity related to financing, is not subject to acceleration or extinguishment by the sale of any property on account of the nonpayment of general taxes.

(c) Is prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes attached to the tract pursuant to the provisions of NRS 361.450.

Sec. 13. [1.] A person that is leasing real property within a district created pursuant to NRS 271.6312 to 271.6325, inclusive, and sections 2 to 13.5, inclusive, of this act may enter into a financing agreement with a capital provider for a qualified improvement project if the owner of the real property consents in writing to the improvements or installations that will be made to the real property as part of the qualified improvement project. Any such consent must be recorded with the other information required to be recorded pursuant to NRS 271.6312 to 271.6325, inclusive, and sections 2 to 13.5, inclusive, of this act.

2. If a person that is leasing real property within a district enters into a financing agreement with a capital provider for a qualified improvement project, the person will own the improvements or installation and be financially responsible and liable for assessments on the tract regardless of whether the lease terminates before the end of the term of assessment, enters into a voluntary written assessment agreement with the municipality pursuant to section 11 of this act.

Sec. 13.5. 1. A municipality, its governing body, its officers and its employees shall not be liable for actions taken pursuant to NRS 271.6312 to 271.6325, inclusive, and sections 2 to 13.5, inclusive, of this act, except in cases of gross negligence, recklessness or willful misconduct.

2. A municipality shall not use any public funds to pay an assessment imposed to repay direct financing between a capital provider and a property owner, nor pledge the full faith and credit of the municipality for such purposes.

3. A municipality that establishes a district pursuant to NRS 271.6312 to 271.6325, inclusive, and sections 2 to 13.5, inclusive, of this act, may impose a fee to a property owner that enters into a voluntary assessment agreement
pursuant to section 11 of this act to recover the reasonable and actual costs of administration and the performance of its duties pursuant to NRS 271.6312 to 271.6325, inclusive, and sections 2 to 13.5, inclusive, of this act.

Sec. 14. NRS 271.385 is hereby amended to read as follows:

271.385 1. At the time and place designated pursuant to NRS 271.380, the governing body shall hear and determine any written complaint, protest or objection filed as provided in that section and any verbal views expressed in respect to the proposed assessments, assessment roll or assessment procedure. The governing body may adjourn the hearing from time to time.

2. The governing body, by resolution, may revise, correct, confirm or set aside any assessment and order that the assessment be made de novo.

3. Any complaint, protest or objection to:
   (a) The assessment roll;
   (b) The regularity, validity and correctness of each assessment;
   (c) The amount of each assessment; or
   (d) The regularity, validity and correctness of any other proceedings occurring after the date of the hearing described in NRS 271.310 and before the date of the hearing governed by this section, shall be deemed waived unless filed in writing within the time and in the manner provided by NRS 271.380.

4. If any owner of a tract which is assessed for the purpose of creating a district pursuant to NRS 271.6312 objects in writing within the time and in the manner provided by NRS 271.380, the tract must be removed from the assessment roll, and the municipality shall not finance the project located on the tract unless the objecting owner withdraws his or her objection in writing within the time specified by the governing body.

Sec. 15. NRS 271.6312 is hereby amended to read as follows:

271.6312 1. The governing body of a municipality, on behalf of the municipality and in its name, without an election, may create a district to finance or refinance one or more qualified improvement projects:

   (a) On qualifying commercial or industrial real property, which may include any real property other than:

   (1) A residential dwelling that contains fewer than five individual dwelling units; or

   (2) Property financed by a government-guaranteed financing program that prohibits the subordination of the government’s interest in the property or otherwise prohibits a contract under NRS 271.6312 to 271.6325, inclusive, and sections 2 to 13.5, inclusive, of this act.

   (b) That meet one of the following requirements:

   (1) For an energy efficiency improvement project, the project must be determined to meet the definition of an energy efficiency improvement project set forth in NRS 271.099, section 4 of this act and be appropriate through
A project may be determined to be appropriate if:

1. The energy audit includes a summary of recommendations, which for each recommendation must include existing and expected consumption and expected energy savings expressed in British thermal units, kilowatt-hours, and kilowatts, the expected annual energy savings, the cost, the payback period in years, the expected life cycle in years and the percentage of savings, as applicable; and

2. The expected energy savings from the project exceeds the investment costs of the project.

For a renewable energy project, the project must be determined to be feasible through a written feasibility study conducted by a qualified service company. The determination of the qualified service company must be supported by a written feasibility study.

For a resiliency project, the project must be determined to meet the definition of a resiliency project set forth in section 8 of this act by a licensed professional in the field of the resiliency project that is approved by the municipality pursuant to NRS 271.6325.

For a water efficiency project, the project must be determined to meet the definition of a water efficiency project set forth in section 9 of this act by a qualified service company. The determination of the qualified service company must be based on a written analysis of the project.

2. A bond or interim warrant issued for a district created pursuant to this section must not be secured by a pledge of the general credit or taxing power of the municipality or by the surplus and deficiency fund established pursuant to NRS 271.428. Subject to the provisions of subsection 2 of NRS 271.6315, a district created pursuant to subsection 1 may comprise the entire jurisdictional boundaries of the municipality or any portion or individual tract thereof.

3. The improvements to or installations within a district created pursuant to this section must not be owned by a municipality but shall be the property of the owner of the tract upon which the improvement or installation is located.

4. The provisions of:
   (a) NRS 271.275 to 271.365, inclusive, and 271.367 to 271.472, inclusive, do not apply to a district which is created pursuant to this section.
   (b) NRS 271.495 and 271.500 do not apply to any bonds or interim warrants issued to finance a qualified improvement project within a district created pursuant to this section.

5. As used in this section:
(a) “Energy audit” means a formal evaluation of the energy consumption of a permanent building or any structural improvement to real property that is consistent with the requirements of ASTM International Standard E2797, “Standard Practice for Building Energy Performance Assessment for a Building Involved in a Real Estate Transaction,” the ASHRAE Level 2 or 3 guidelines for energy audits or any comparable energy assessment guidelines.

(b) “Qualified service company” has the meaning ascribed to it in NRS 333A.060.

Sec. 16. NRS 271.6315 is hereby amended to read as follows:

271.6315 1. A governing body may create a district pursuant to NRS 271.6312 only if:

(a) The governing body makes a finding that the creation of the district serves the public purposes of resource conservation, reducing emissions or increasing the resiliency of the community.

(b) The governing body has, pursuant to NRS 271.6325, adopted by resolution a procedure for the creation and administration of a district for the purpose of financing or refinancing one or more energy efficiency improvement projects or renewable energy qualified improvement projects.

2. The governing body shall not include a tract within the boundaries of the district unless:

(a) The owner of the tract on which an energy efficiency improvement project or renewable energy qualified improvement project will be located enters into a voluntary assessment agreement pursuant to section 11 of this act agreeing to the levy of an assessment against the tract to pay all or a portion of the cost thereof in an amount up to the estimated maximum benefit to the tract from the installation or improvement. The estimated maximum benefit may not exceed the market value of the tract as determined by the governing body.

(c) the amount of financing or refinancing set forth in the financing agreement and the placement of an assessment lien on the property pursuant to the provisions of section 12 of this act.

(d) Each consent provided pursuant to paragraph (b):

(1) Describes the tract to be assessed and the improvements to be financed;

(2) States the estimated maximum benefit that the owner agrees will be conferred on the tract by virtue of the installation or improvement; and

(3) Is accompanied by:

(1) A signed copy of each contract between an owner of the tract and each contractor described in NRS 271.6321 pursuant to which the contractor agrees to construct, acquire and install the installation or improvement identified in the consent at a total price which does not exceed the limitation
set forth in NRS 271.6321 and which contains any terms, including, without limitation, application fees and costs, the total amount financed, annual percentage rate, total amount paid over the life of any assessment, any appraisal fees, bond-related costs, annual administrative fees, closing costs, credit reporting fees and recording fees, and such other terms not inconsistent with the provisions of NRS 271.6312 to 271.6325, inclusive, or with the resolution adopted pursuant to NRS 271.6325, as may be agreed upon by the owner of the tract and the contractor and is acceptable to the governing body; and

(II) A deposit in an amount determined in the manner specified in the resolution adopted pursuant to NRS 271.6325, which may be refunded if the project to which the consent relates is completed and is financed with assessments levied pursuant to this chapter within the period specified in the resolution.

(b) The amount of the assessment lien that will be placed on the tract for a qualified improvement project, if used for improving or retrofitting an existing structure, does not exceed 25 percent of the fair market value of the property assessed, as determined by a certified appraiser pursuant to guidelines adopted pursuant to NRS 271.6325.

(c) The amount of the assessment lien that will be placed on the tract for a qualified improvement project, if used for new construction or a gut rehabilitation, does not exceed 35 percent of the fair market value of the property assessed, as determined by a certified appraiser pursuant to guidelines adopted pursuant to NRS 271.6325.

(d) The outstanding amount owed on all recorded instruments which are liens against the tract, including the assessment lien for the qualified improvement project, will not exceed 90 percent of the estimated fair market value of the property assessed, as determined by the governing body, including the imposition of the liens for assessments pursuant to NRS 271.6312 to 271.6325, inclusive, and sections 2 to 13, inclusive, of this act.

(e) Any lender who holds a lien on the tract on which the qualified improvement project will be located consents in writing to the levy of an assessment and assessment lien against the tract to secure repayment of the financing or refinancing of the qualified improvement project. A consent signed pursuant to this paragraph must be in a recordable form and is binding on the holder of a lien who signs the consent.

[The text continues with more detailed provisions related to assessments and liens for qualified improvement projects.]
after providing consent pursuant to this paragraph, to offer a loan to the owner of the tract as the primary lender on the new levy of assessment.

2. Each consent provided pursuant to this paragraph must be recorded in the office of the county recorder and, once recorded, is binding on the lender who signed the consent and any other person who holds any interest in the tract to which the consent relates and who signed the consent.

3. A district created pursuant to NRS 271.6312 may be created at any time as designated by a governing body, but must only include tracts for which a consent has been recorded pursuant to subsection 2.

4. As used in this section, “lender” means a mortgagee, the beneficiary of a deed of trust or other creditor who holds a mortgage, deed of trust or other recorded instrument that encumbers a tract as security for the repayment of a loan used to purchase the tract.

Sec. 17. NRS 271.6321 is hereby amended to read as follows:

271.6321 Construction of a qualified improvement project within a district created pursuant to NRS 271.6312 must be completed through independent contracts with contractors licensed in Nevada who are approved by the governing body. The municipality is not responsible for the construction, or any defects or delays thereof. The laws of this State relating to public bidding, public works or public procurement are not applicable to contracts for construction executed pursuant to this subsection. The total contract price of any improvement or installation must not exceed 80 percent of the maximum estimated benefit for the tract as stated in the consent, as it may be amended from time to time, unless the owner of the property to be assessed:

1. Agrees to pay and pays, or causes another party to pay, the difference between 80 percent of the estimated maximum benefit and the total contract price from a source other than financing provided pursuant to this chapter; and

2. Agrees in writing that the improvement or installation will in fact benefit the tract by an amount at least equal to the sum of the estimated maximum benefit stated in the consent and the amount to be paid from a source other than financing provided pursuant to this chapter.

Sec. 18. NRS 271.6325 is hereby amended to read as follows:

271.6325 1. Before creating a district pursuant to NRS 271.6312, a governing body must adopt an ordinance which specifies the procedures for the creation and administration of such a district.

2. The ordinance adopted pursuant to subsection 1 must approve a program guide that, without limitation:

(a) Sets forth the forms for any agreements necessary between the district, the property owner and the capital provider. The forms must include, without limitation:

(1) A provision...
(a) A draft voluntary assessment agreement between the municipality and the property owner;
(b) A draft notice of assessment and assessment lien; and
(c) A draft assignment of the assessment and the assessment lien.

3. The ordinance adopted pursuant to subsection 1 must:
(a) Require that the property owner agree to the assessment in the amount approved by the governing body as repayment for the financing of the qualified improvement project.
(b) Require that the property owner acknowledge that a lien will be recorded on the real property pursuant to section 12 of this act to secure the repayment of the financing set forth in the financing agreement.
(c) Prohibit any financing agreement the duration of which exceeds the useful life of the qualified improvement project or, if the qualified improvement project includes more than one qualified improvement, the weighted average life of all qualified improvements included in the qualified improvement project.
(d) Describe the application and eligibility requirements for real property to be included in a district, including, without limitation, with respect to a resiliency project. Such provisions must set forth:
   (1) The nature of resiliency improvements that may be included in a resiliency project;
   (2) The standards and codes that must be met for a resiliency project to be a qualified improvement; and
   (3) The types of licensed professionals who are approved by the municipality to determine whether the resiliency project meets the definition set forth in section 8 of this act, as required by NRS 271.6312.
(d) Describes, including, without limitation, whether a specific type of resiliency project needs to be approved by:
   (I) An architect licensed pursuant to chapter 623 of NRS;
   (II) A landscape architect licensed pursuant to chapter 623A of NRS;
   (III) A professional engineer licensed pursuant to chapter 625 of NRS;
   (IV) An environmental health specialist that has a certificate of registration pursuant to chapter 625A of NRS;
   (V) A land use planner certified by the American Institute of Certified Planners; or
   (VI) Any other licensed professional person, as set forth in the ordinance.
(e) Describe the requirements to be a capital provider.
(f) Require each application to be reviewed on its own merits.
(g) Require each application to include the submission of the analysis or feasibility study required pursuant to NRS 271.6312.

(h) Provide that any approval of a qualified improvement project by a municipality will only apply to the tract or tracts set forth in the application.

(i) Set forth guidelines for a certified appraiser to determine the fair market value of the property that will be assessed.

4. The [resolution] ordinance may provide for one or more of the following:

(a) Additional notices of the proposal to create the district, notices of the opportunity to apply for inclusion in the district or any other notices;

(b) Any additional requirements for a qualified improvement project, including, without limitation, any requirement for insurance, security features or additional covenants and agreements that must be entered into by the municipality, capital provider, property owner and, if applicable, lessee;

(c) If applicable:

(1) A reserve of money for bonds issued for the district, the method of funding the reserve and the disposition of any interest earned upon or the principal of the reserve that is not needed to repay any bonds or interim warrants issued for the purposes of financing [an energy efficiency improvement project or renewable energy] a qualified improvement project within the district; and

(2) Any other security for those bonds or interim warrants; and the method of determining the term of the bonds in compliance with NRS 271.515;

(d) Any requirements for casualty insurance, liability insurance or other types of insurance for any project within the district;

(e) The method of determining the lien-to-value ratio of the property for the purpose of complying with the limitation prescribed by paragraph [(d)](e) of subsection 1 of NRS 271.6315;

(f) Any limitation on the lien-to-value ratio that would result in a lower lien-to-value ratio than that prescribed by paragraph [(d)](e) of subsection 1 of NRS 271.6315;

(g) Any limitation on the amount of the contract price, as a percentage of the estimated maximum benefit, that is lower than the limitation prescribed by NRS 271.6321;

(h) Any sources, other than the proceeds of assessments, that will be used to pay:

(1) The cost of construction and installation of improvements financed pursuant to NRS 271.6312 to 271.6325, inclusive [13.5, inclusive, of this act];

(2) The cost of any reserve of money or other security for financing [an energy efficiency improvement project or renewable energy] a qualified improvement project pursuant to NRS 271.6312 to 271.6325, inclusive [13.5, inclusive, of this act]; or
(3) The cost of engineering work, the cost to issue any bonds or provide other financing, or the cost of other incidentals pursuant to NRS 271.6312 to 271.6325, inclusive [; and sections 2 to 13.5, inclusive, of this act; and]

(h) Any other security features, covenants required of property owners, covenants required of other parties or any other covenants, guarantees, insurance or other matters which the governing body finds are necessary or desirable for the financing of a qualified improvement project pursuant to NRS 271.6312 to 271.6325, inclusive [; and sections 2 to 13.5, inclusive, of this act; and]

(i) Any other matters, procedures or financing terms which the governing body, in its sole discretion, determines are necessary or desirable to carry out the purposes of NRS 271.6312 to 271.6325, inclusive [; and sections 2 to 13.5, inclusive, of this act; and]

(j) A designation delegating the governance and administration of the district to the municipality, its governing body, designated employees or an independent third party administrator.

4. [A resolution An ordinance] adopted pursuant to this section [;

(a) Must contain or incorporate by reference an exhibit describing each tract to be assessed, the type of improvement or installation to be financed for each tract and the estimated maximum benefit as stated in the consent provided pursuant to paragraph (b) of subsection 1 of NRS 271.6315.

(b) May be adopted as if an emergency exists by a vote of not less than two-thirds of all the voting members of the governing body.

Sec. 19. 1. The provisions of sections 1 to 18, inclusive, of this act may be used by the governing body of a municipality that has created a district pursuant to NRS 271.6312 to 271.6325, inclusive, before October 1, 2021, but the provisions of sections 1 to 18, inclusive, of this act do not affect any financing, billing, collection or enforcement of financing of any existing project in the district created pursuant to NRS 271.6312 to 271.6325, before October 1, 2021.

2. As used in this section:
(a) “Governing body” has the meaning ascribed to it in NRS 271.115.
(b) “Municipality” has the meaning ascribed to it in NRS 271.145.
(c) “Project” means an energy efficiency improvement project or renewable energy project that began before October 1, 2021, in a district created pursuant to NRS 271.6312 to 271.6325, inclusive, as those provisions existed on September 30, 2021.

Senator Dondero Loop moved the adoption of the amendment.
Remarks by Senators Dondero Loop, Seevers Gansert, Brooks and Pickard.

SENATOR DONDERO LOOP:
(To be entered at a later date.)

SENATOR SEEVERS GANSERT:
(To be entered at a later date.)
Amendment adopted.
Bill read third time.
Remarks by Senators Brooks and Kieckhefer.

Roll call on Senate Bill No. 283:
YEAS—14.
NAYS—Buck, Goicoechea, Hammond, Hansen, Hardy, Pickard, Settelmeyer—7.

Senate Bill No. 283 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 285.
Bill read third time.
Remarks by Senator Harris.
(To be entered at a later date.)

Roll call on Senate Bill No. 285:
Senate Bill No. 285 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 294.
Bill read third time.
The following amendment was proposed by Senator Cannizzaro:
Amendment No. 475.
SUMMARY—Revises provisions governing collective bargaining by local government employers. (BDR 23-254)
AN ACT relating to local governments; revising provisions relating to collective bargaining between local government employers and employee organizations; and providing other matters properly relating thereto.
Legislative Counsel’s Digest:
Under existing law, if a local government employer and an employee organization that represents local government employees, other than firefighters, police officers, teachers and educational support personnel, fail to resolve a disputed issue in negotiating a collective bargaining agreement, either party may submit the dispute to an impartial fact finder. Before submitting the dispute to the fact finder, the parties may agree to make the findings and recommendations of the fact finder final and binding. If the parties cannot agree, either party may request the formation of a panel to determine whether the findings and recommendations of the fact finder on certain issues are to be final and binding. (NRS 288.200) Sections 1.5, 2 and 5 of this bill remove or repeal the provisions relating to such panels. Section 4 of this bill makes a conforming change by eliminating the authorization of the expenditure of funds from the Reserve for Statutory Contingency Account in the State General Fund for expenses related to such panels.
Existing law establishes certain procedures and requirements applicable to the fact-finding process in negotiations between local government employers and recognized employee organizations representing firefighters and police officers and between school districts and employee organizations representing teachers and educational support personnel. (NRS 288.205, 288.215) Those procedures and requirements differ in certain respects from the procedures and requirements applicable to fact-finding in labor negotiations involving other local government employees. Section 2 of this bill makes changes applicable only to labor disputes between local government employers which are cities and employee organizations which represent employees other than those involving firefighters, police officers, teachers and educational support personnel. Specifically, if a city and such an employee organization do not agree on whether to make the findings and recommendations of a fact finder final and binding...
section 1 allows either party to the dispute to] , either party may submit the findings and recommendations of the fact finder to a second fact finder to serve as an arbitrator and issue a decision which is final and binding on the parties.

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

Section 1. (Chapters 288 of NRS is hereby amended by adding thereto a new section to read as follows:

In the case of an employee organization and a local government employer which is a city and to which NRS 288.215 does not apply, the following departures from the provisions of NRS 288.200 apply:

1. If the parties do not agree on whether to make the findings and recommendations of the fact finder final and binding, either party may request the submission of the findings and recommendations of the fact finder on all or any specified issues in a particular dispute which are within the scope of subsection 10 of NRS 288.200 to a second fact finder to serve as an arbitrator and issue a decision which is final and binding.

2. The parties shall select a second fact finder to serve as an arbitrator pursuant to subsection 1 using the process established in subsection 2 of NRS 288.200.

Sec. 1.5. NRS 288.044 is hereby amended to read as follows:

288.044 “Fact-finding” means the formal procedure by which an investigation of a labor dispute is conducted by a [person] fact finder at which:

1. Evidence is presented; and

2. A written report is issued by the fact finder describing the issues involved, making findings and setting forth recommendations for settlement which may or may not be binding [as provided in NRS 288.200.]

Sec. 2. NRS 288.200 is hereby amended to read as follows:

288.200 Except in cases to which NRS 288.205 and 288.215, or NRS 288.217 apply:

1. If:

(a) The parties have failed to reach an agreement after at least six meetings of negotiations; and

(b) The parties have participated in mediation and by April 1, have not reached agreement,

either party to the dispute, at any time after April 1, may submit the dispute to an impartial fact finder for the findings and recommendations of the fact finder. The findings and recommendations of the fact finder are not binding on the parties except as provided in subsections 5, 6 and 11. The mediator of a dispute may also be chosen by the parties to serve as the fact finder.

2. If the parties are unable to agree on an impartial fact finder [or a panel of neutral arbitrators] within 5 days, either party may request from the American Arbitration Association or the Federal Mediation and Conciliation Service a list of seven potential fact finders. If the parties are unable to agree
upon which arbitration service should be used, the Federal Mediation and Conciliation Service must be used. Within 5 days after receiving a list from the applicable arbitration service, the parties shall select their fact finder from this list by alternately striking one name until the name of only one fact finder remains, who will be the fact finder to hear the dispute in question. The employee organization shall strike the first name.

3. The local government employer and employee organization each shall pay one-half of the cost of fact-finding. Each party shall pay its own costs of preparation and presentation of its case in fact-finding.

4. A schedule of dates and times for the hearing must be established within 10 days after the selection of the fact finder pursuant to subsection 2, and the fact finder shall report the findings and recommendations of the fact finder to the parties to the dispute within 30 days after the conclusion of the fact-finding hearing.

5. The parties to the dispute may agree, before the submission of the dispute to fact-finding, to make the findings and recommendations on all or any specified issues final and binding on the parties.

6. If the parties to whom the provisions of NRS 288.215 and 288.217 do not apply do not agree on whether to make the findings and recommendations of the fact finder final and binding, either party may request the formation of a panel to determine whether the findings and recommendations of a fact finder on all or any specified issues in a particular dispute which are within the scope of subsection 1 are to be submitted to a second fact finder to serve as an arbitrator and issue a decision which is final and binding. The determination must be made upon the concurrence of at least two members of the panel and not later than the date which is 30 days after the date on which the matter is submitted to the panel, unless that date is extended by the Commissioner of the Board. Each panel shall, when making its determination, consider whether the parties have bargained in good faith and whether it believes the parties can resolve any remaining issues. Any panel may also consider the actions taken by the parties in response to any previous fact-finding between these parties, the best interests of the State and all its citizens, the potential fiscal effect both within and outside the political subdivision, and any danger to the safety of the people of the State or a political subdivision. The second fact finder must be selected in the manner provided in subsection 2 and has the powers provided for fact finders in NRS 288.210.

7. Except as otherwise provided in subsection 10, any fact finder, whether the fact finder’s recommendations are to be binding or not, shall base such recommendations or award on the following criteria:

(a) A preliminary determination must be made as to the financial ability of the local government employer based on all existing available revenues as established by the local government employer and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the local government employer to provide facilities and services guaranteeing the
health, welfare and safety of the people residing within the political subdivision. If the local government employer is a school district, any money appropriated by the State to carry out increases in salaries or benefits for the employees of the school district must be considered by a fact finder in making a preliminary determination.

(b) Once the fact finder has determined in accordance with paragraph (a) that there is a current financial ability to grant monetary benefits, and subject to the provisions of paragraph (c), the fact finder shall consider, to the extent appropriate, compensation of other government employees, both in and out of the State and use normal criteria for interest disputes regarding the terms and provisions to be included in an agreement in assessing the reasonableness of the position of each party as to each issue in dispute and the fact finder shall consider whether the Board found that either party had bargained in bad faith.

(c) A consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multiyear contract, the fact finder must consider the ability to pay over the life of the contract being negotiated or arbitrated.

7. The fact finder’s report must contain the facts upon which the fact finder based the fact finder’s determination of financial ability to grant monetary benefits and the fact finder’s recommendations or award.

8. Within 45 days after the receipt of the report from the fact finder, the governing body of the local government employer shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

(a) The issues of the parties submitted pursuant to [subsection 1]; this section;
(b) The report of findings and recommendations of the fact finder; and
(c) The overall fiscal impact of the findings and recommendations, which must not include a discussion of the details of the report.

The fact finder must not be asked to discuss the decision during the meeting.

9. The chief executive officer of the local government shall report to the local government the fiscal impact of the findings and recommendations. The report must include, without limitation, an analysis of the impact of the findings and recommendations on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment.

10. Any sum of money which is maintained in a fund whose balance is required by law to be:

(a) Used only for a specific purpose other than the payment of compensation to the bargaining unit affected; or
(b) Carried forward to the succeeding fiscal year in any designated amount, to the extent of that amount,
must not be counted in determining the financial ability of a local
government employer and must not be used to pay any monetary benefits
recommended or awarded by the fact finder.

The issues which may be included in a recommendation or
award by a fact finder are:
(a) Those enumerated in subsection 2 of NRS 288.150 as the subjects of
mandatory bargaining, unless precluded for that year by an existing collective
bargaining agreement between the parties; and
(b) Those which an existing collective bargaining agreement between the
parties makes subject to negotiation in that year.

This subsection does not preclude the voluntary submission of other issues
by the parties pursuant to subsection 5.

Except for the period prescribed by subsection 8, any time
limit prescribed by this section may be extended by agreement of the parties.

Sec. 3. (Deleted by amendment.)
Sec. 4. NRS 353.264 is hereby amended to read as follows:

1. The Reserve for Statutory Contingency Account is hereby
created in the State General Fund.
2. The State Board of Examiners shall administer the Reserve for Statutory
Contingency Account. The money in the Account must be expended only for:
(a) The payment of claims which are obligations of the State pursuant to
NRS 41.03435, 41.0347, 621.025, 176.485, 179.310, 212.040, 212.050,
212.070, 281.174, 282.290, 282.315, 288.203, 293.253, 293.405, 353.120,
353.262, 412.154 and 475.235;
(b) The payment of claims which are obligations of the State pursuant to:
(1) Chapter 472 of NRS arising from operations of the Division of
Forestry of the State Department of Conservation and Natural Resources
directly involving the protection of life and property; and
(2) NRS 7.155, 34.750, 176A.640, 179.225 and 213.153,
except that claims may be approved for the respective purposes listed in this
paragraph only when the money otherwise appropriated for those purposes has
been exhausted;
(c) The payment of claims which are obligations of the State pursuant to
NRS 41.0349 and 41.037, but only to the extent that the money in the Fund for
Insurance Premiums is insufficient to pay the claims;
(d) The payment of claims which are obligations of the State pursuant to
NRS 41.950; and
(e) The payment of claims which are obligations of the State pursuant to
NRS 535.030 arising from remedial actions taken by the State Engineer when
the condition of a dam becomes dangerous to the safety of life or property.

3. The State Board of Examiners may authorize its Clerk or a person
designated by the Clerk, under such circumstances as it deems appropriate, to
approve, on behalf of the Board, the payment of claims from the Reserve for
Statutory Contingency Account. For the purpose of exercising any authority
granted to the Clerk of the State Board of Examiners or to the person designated by the Clerk pursuant to this subsection, any statutory reference to the State Board of Examiners relating to such a claim shall be deemed to refer to the Clerk of the Board or the person designated by the Clerk.

Sec. 5. NRS 288.201, 288.202 and 288.203 are hereby repealed.

Sec. 6. This act becomes effective on July 1, 2021.

TEXT OF REPEALED SECTIONS

288.201 Request for formation of panel to determine whether findings and recommendations of fact finder are final and binding. Any request for the formation of a panel to determine whether the findings and recommendations of a fact finder must be final and binding must be filed with the Commissioner. The request must include:
1. A list of the issues which remain unresolved and the position of each party regarding those issues;
2. The requester’s assessment of the fiscal effect on the local government of the requester’s positions;
3. An outline of any previous fact-finding between the parties, which includes any recommendations and awards of a fact finder and the actions of each party in response thereto;
4. A statement of whether the parties engaged in mediation regarding the current dispute;
5. A schedule of the dates and times set by the fact finder for the hearing; and
6. Any other information deemed necessary by the Commissioner.

Any person filing such a request shall give written notice of the request to the Nevada State Board of Accountancy and the State Bar of Nevada.

288.202 Formation of panel to determine whether findings and recommendations of fact finder are final and binding.

1. Within 5 days after receiving notice of such a request, the Nevada State Board of Accountancy and the State Bar of Nevada shall each submit to the Commissioner and each party to the dispute a list of names of five of their members who would serve on a panel and are not closely allied with any employee association or local government employer.

2. Within 8 days after receiving the lists, the parties shall choose one name from each list by alternately striking one name until the names of only one attorney and one accountant remain, who will each be a member of the panel. The parties shall choose the member from the list of accountants separately from their choice from the list of attorneys. The parties shall notify the Commissioner of their selections and the Commissioner shall notify the attorney and accountant selected.

3. Within 5 days after receiving notice of their selection, the attorney and accountant shall:
   (a) Choose the third member of the panel, who must:
      (1) Be willing to serve on the panel;
(2) Be a resident of this State; and
(3) Not be closely allied with any employee organization or local government employer.

(b) Notify the Commissioner of their choice, and the three members shall, within 5 days after selecting the third member of the panel, notify the Commissioner of the dates when they will all be available to attend hearings.

4. The Commissioner shall serve as a nonvoting member and also as the chair of the panel.

5. If the accountant or attorney selected to serve on the panel is unable to do so, the Nevada State Board of Accountancy or State Bar of Nevada shall designate a person to replace its nominee. If the person selected by the accountant and attorney is unable to serve, the accountant and attorney shall designate another person as a replacement. If the Commissioner is unable to serve, the Governor shall designate a person to serve in the Commissioner’s capacity.

288.203 Compensation of members of panel; claims.

1. Each person, except the Commissioner, who serves on a panel formed pursuant to NRS 288.201 is entitled to receive as compensation:
   (a) One hundred fifty dollars for each day the person is engaged in the business of the panel; and
   (b) The per diem allowance and travel expenses provided for state officers and employees generally.

2. All claims which arise pursuant to this section must be paid from the Reserve for Statutory Contingency Account upon approval by the Commissioner and the State Board of Examiners.

Senator Cannizzaro moved the adoption of the amendment.
Remarks by Senator Cannizzaro.
(To be entered at a later date.)

Amendment adopted.
Bill read third time.
Remarks by Senator Cannizzaro.
(To be entered at a later date.)

Roll call on Senate Bill No. 294:
YEAS—12.

Senate Bill No. 294 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 305.
Bill read third time.
Remarks by Senator Hammond.
(To be entered at a later date.)
Senate Bill No. 305:
YEA—21.
NAY—None.

Senate Bill No. 305 having received a constitutional majority, Madam President declared it passed, as amended. Bill ordered transmitted to the Assembly.

Senate Bill No. 307.
Bill read third time.
Remarks by Senators Dondero Loop and Settelmeyer.

SENATOR DONDERO LOOP:
(To be entered at a later date.)

SENATOR SETTELMEYER:
(To be entered at a later date.)

Roll call on Senate Bill No. 307:
YEA—21.
NAY—None.

Senate Bill No. 307 having received a constitutional majority, Madam President declared it passed, as amended. Bill ordered transmitted to the Assembly.

Senate Bill No. 308.
Bill read third time.
Remarks by Senator Dondero Loop.
(To be entered at a later date.)

Roll call on Senate Bill No. 308:
YEA—13.

Senate Bill No. 308 having received a constitutional majority, Madam President declared it passed, as amended. Bill ordered transmitted to the Assembly.

Senate Bill No. 328.
Bill read third time.
Remarks by Senator Lange.
(To be entered at a later date.)

Roll call on Senate Bill No. 328:
YEA—13.

Senate Bill No. 328 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 332.
Bill read third time.
Remarks by Senator Scheible.
(To be entered at a later date.)

Roll call on Senate Bill No. 332:
YEAS—21.
NAYS—None.

Senate Bill No. 332 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 346.
Bill read third time.
The following amendment was proposed by the Committee on Revenue and Economic Development:
Amendment No. 390.
SUMMARY—Imposes a tax on the retail sale of certain digital products.
(BDR 32-9)
AN ACT relating to taxation; providing for the imposition, administration, collection and enforcement of a tax on certain digital products electronically transferred to a purchaser; providing for the imposition, administration, collection and enforcement of a tax on gross receipts derived from providing direct to home satellite television services; providing penalties; and providing other matters properly relating thereto.
Legislative Counsel's Digest:
Sections 24 and 33 of this bill impose a tax on a retail sale in this State of specified digital products electronically transferred to a person and on the use of specified digital products electronically transferred to a person in a transaction in this State for which the tax was not collected at the time of sale. Section 23 of this bill establishes requirements for determining the place where a sale of specified digital products takes place for the purpose of the tax. Under sections 24 and 33, the rate of the tax is the same as the sales and use tax rate imposed in the county determined pursuant to section 24. Under section 100 of this bill, the requirement to impose, collect and remit the tax is imposed on a retailer if, in the immediately preceding calendar year or the current calendar year, the retailer had more than a $100,000 of gross revenue from certain transactions that took place in this State or 200 or more such transactions that took place in this State. Sections 1-22, 25-32, 34-99 and 101-117 of this bill provide for the administration, collection and enforcement of the tax in the same manner as the sales and use tax. Section 152 of this bill establishes January 1, 2022, as the effective date of this bill.
Section 94 of this bill requires a person who directly or indirectly facilitates retail sales of specified digital products to collect and remit the tax if, in the
immediately preceding calendar year or the current calendar year, the facilitator had more than $100,000 of gross receipts from certain transactions made to customers in this State or made or facilitated 200 or more transactions, on its own behalf or on behalf of a seller, unless the facilitator enters into an agreement with a seller whereby the seller agrees to assume responsibility for the collection and imposition of the tax. Section 95 of this bill provides that such a facilitator is not liable for the payment of the tax under certain circumstances.

Section 96 of this bill requires 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 the tax if 200 or more retail sales to customers in this State result from referrals made by the person or the cumulative gross receipts of sales resulting from such referrals exceed $100,000, unless the person complies with certain notice requirements and makes a monthly report to the Department of Taxation.

Sections 139-149 of this bill make conforming changes.

[Section 127 of this bill imposes a tax on the gross receipts derived from providing direct-to-home satellite television service to a customer in this State. Sections 119-126 of this bill generally provide for the administration and enforcement of the tax on the gross receipts derived from providing direct-to-home satellite television service. Section 128 of this bill requires payments for the tax on the gross receipts derived from providing direct-to-home satellite television service to be credited to the State General Fund and the Account to Stabilize the Operation of the State Government, also known as the Rainy Day Fund. Section 129 of this bill provides for the sourcing of gross receipts derived from providing direct-to-home satellite television service. Sections 130-136 of this bill establish procedures for the handling of overpayments and refunds of the tax. Section 137 of this bill establishes penalties related to the tax. Section 138 of this bill provides that the remedies of the State with respect to the tax are cumulative.]

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

Section 1. Title 32 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 117, inclusive, of this act.

Sec. 2. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 22, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 3. “Business” includes any activity engaged in by any person or caused to be engaged in by any person with the object of gain, benefit or advantage, either direct or indirect.

Sec. 4. “Computer software” means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.
Sec. 5. “Digital audio works” means works that result from the fixation of a series of musical, spoken or other sounds, including, without limitation, ringtones.

Sec. 6. “Digital audio-visual works” means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

Sec. 7. “Digital books” means works that are generally recognized in the ordinary and usual sense as “books.”

Sec. 8. “Electronically transferred” means obtained by the purchaser by means other than tangible storage media.

Sec. 9. “End user” means any person who receives a specified digital product, other than a person who receives by contract a specified digital product for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution or exhibition of the specified digital product, in whole or in part, to another person or persons.

Sec. 10. 1. “Gross receipts” means the total amount of the sales price or lease or rental price, as the case may be, of the retail sales of specified digital products of retailers of specified digital products, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:
   (a) The cost of the specified digital products sold, except that, in accordance with such rules and regulations as the Department may prescribe, a deduction may be taken if the retailer has purchased specified digital products for some other purpose than resale, has reimbursed the vendor of the specified digital products for tax which the vendor is required to pay to the State or has paid the use tax with respect to the specified digital products, and has resold the specified digital products before making any use of the specified digital products other than the broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distributing, redistributing or exhibition in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to the vendor of the specified digital products with respect to the sale of the specified digital products.
   (b) The cost of the materials used, labor or service cost, interest paid, losses or any other expense.
   2. The total amount of the sales or lease or rental price includes all of the following:
      (a) Any services that are a part of the sale.
      (b) All receipts, cash, credits and property of any kind.
      (c) Any amount for which credit is allowed by the seller to the purchaser.
   3. “Gross receipts” does not include any of the following:
      (a) Cash discounts allowed and taken on sales.
(b) The sales price of specified digital products returned by customers when the full sales price is refunded either in cash or credit, but this exclusion does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other specified digital products at a price greater than the amount charged for the specified digital products that are returned.

(c) The price received for labor or services used in installing or applying the specified digital products sold.

(d) The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the end user.

4. For purposes of the tax imposed by section 24 of this act, if a retailer establishes to the satisfaction of the Department that the tax has been added to the total amount of the sales price and has not been absorbed by the retailer, the total amount of the sales price shall be deemed to be the amount received exclusive of the tax imposed.

Sec. 11. “In this State” or “in the State” means within the exterior limits of the State of Nevada and includes all territory within these limits owned by or ceded to the United States of America.

Sec. 12. 1. “Occasional sale” includes:
(a) A sale of specified digital products not held or used by a seller in the course of an activity for which the seller is required to hold a seller’s permit, if the sale is not one of a series of sales sufficient in number, scope and character to constitute an activity requiring the holding of a seller’s permit.
(b) Any transfer of all or substantially all the specified digital products held or used by a person in the course of such an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer.

2. For the purposes of this section, stockholders, bondholders, partners or other persons holding an interest in a corporation or other entity are regarded as having the “real or ultimate ownership” of the specified digital products of the corporation or other entity.

Sec. 13. “Other digital products”:
1. Means greeting cards, digital images, video or electronic games or news and prewritten computer software, as defined in NRS 360B.470.
2. Does not include:
(a) Computer software that is not prewritten computer software.
(b) The storage, management and dissemination of data and information on a cloud network, server or other digital storage medium.
(c) The provision of maintenance services for computer software, provided that, if the purchase of the maintenance services occurs at the same time as the purchase of the software, the maintenance services are optional and are separately stated on any invoice, billing or other document given to a purchaser.
(d) Internet service.
(e) Payment processing services, including, without limitation, services for processing payments from retail sales and peer-to-peer money transfers.

(f) Accounting, bookkeeping and check preparation services.

(g) Internet broadcasts of live entertainment or educational or informational presentations.

(h) Website hosting, storage or backup.

(i) The transmission of educational or instructional programming, including, without limitation, the transmission of courses by an elementary or secondary school, vocational or technical school or institution of higher education or the transmission of courses of professional development.

(j) The services of a travel agent.

(k) Cryptocurrency or digital currency, not including simulated currencies or in-game currencies which are not intended to be convertible to legal tender.

(l) Gift cards.

Sec. 14. “Purchase” means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of specified digital products for a consideration.

Sec. 15. “Retail sale” or “sale at retail” means a sale for any purpose other than resale in the regular course of business of specified digital products.

Sec. 16. 1. “Retailer” includes:

(a) Every seller who makes any retail sale or sales of specified digital products.

(b) Every person engaged in the business of making sales of specified digital products for use.

(c) Every person making more than two retail sales of specified digital products during any 12-month period, including sales made in the capacity of assignee for the benefit of creditors or a receiver or trustee in bankruptcy.

2. When the Nevada Tax Commission determines that it is necessary for the efficient administration of this chapter to regard any salespersons, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the specified digital products sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the Nevada Tax Commission may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

Sec. 17. “Ringtones” means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

Sec. 18. “Sale” means and includes any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of specified digital products for a consideration,
including, without limitation, any such transfer, exchange or barter on a subscription basis.

Sec. 19. 1. “Sales price” means the total amount for which specified digital products are sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:
   (a) The cost of the specified digital products sold.
   (b) The cost of materials used, labor or service cost, interest charged, losses or any other expenses.
   (c) The cost of transmitting the specified digital products before purchase.

2. The total amount for which specified digital products are sold includes all of the following:
   (a) Any services that are a part of the sale.
   (b) Any amount for which credit is given to the purchaser by the seller.

3. “Sales price” does not include any of the following:
   (a) Cash discounts allowed and taken on sales.
   (b) The amount charged for specified digital products returned by customers when the entire amount charged therefor is refunded either in cash or credit, except that this exclusion does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other specified digital products at a price greater than the amount charged for the specified digital products that are returned.
   (c) The amount charged for labor or services rendered in installing or applying the specified digital products sold.
   (d) The amount of any tax, not including any manufacturers’ or importers’ excise tax, imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

Sec. 20. “Seller” includes every person engaged in the business of selling specified digital products of a kind, the gross receipts from the retail sale of which are required to be included in the measure of the tax imposed by section 24 of this act.

Sec. 21. 1. “Specified digital products” means electronically transferred:
   (a) Digital audio works;
   (b) Digital audio-visual works;
   (c) Digital books;
   (d) Digital codes; and
   (e) Other digital products.

2. The term does not include:
   (a) Direct-to-home satellite television [service, the gross receipts of which are subject to the tax imposed by section 127 of this act, as defined in 47 U.S.C. § 152].
   (b) Video service, the gross revenues of which may be used to calculate a franchise fee imposed pursuant to NRS 711.670.

3. As used in this section, “digital code” [means]:
(a) Means a method that permits a purchaser to obtain or access at a later date specified digital products.
(b) Does not include public or private keys when used in a transaction conducted on a blockchain. As used in this paragraph:
   (1) “Blockchain” has the meaning ascribed to it in NRS 719.045.
   (2) “Private key” has the meaning ascribed to it in NRS 720.100.
   (3) “Public key” has the meaning ascribed to it in NRS 720.110.

Sec. 22. “Subscription” means any arrangement in which a person has the right or ability to access, receive, use, obtain, purchase or otherwise acquire specified digital products on a permanent or less than permanent basis, regardless of whether the person actually accesses, receives, uses, obtains, purchases or otherwise acquires such specified digital products.

Sec. 23. For the purposes of this chapter, a retail sale of specified digital products shall be deemed to take place:
1. If the specified digital products are received by the purchaser at a place of business of the seller, at that place of business.
2. If the specified digital products are not received by the purchaser at a place of business of the seller:
   (a) At the location indicated to the seller pursuant to any instructions provided for the delivery of the specified digital products to the purchaser or to another recipient who is designated by the purchaser as his or her donee; or
   (b) If no such instructions are provided and if known by the seller, at the location where the purchaser or another recipient who is designated by the purchaser as his or her donee, receives the specified digital products.
3. If subsections 1 and 2 do not apply, at the address of the purchaser indicated in the business records of the seller that are maintained in the ordinary course of the seller’s business, unless the use of that address would constitute bad faith.
4. If subsections 1, 2 and 3 do not apply, at the address of the purchaser obtained during the consummation of the sale, including, if no other address is available, the address of the purchaser’s instrument of payment, unless the use of an address pursuant to this subsection would constitute bad faith.
5. In all other circumstances, at the address from which the specified digital products were shipped.

Sec. 24. 1. An excise tax is hereby imposed upon the retail sale of specified digital products to an end user in this State, in an amount equal to the rate equal to the sum of the rates of all taxes imposed upon sales at retail of tangible personal property in the county in which the purchaser resides multiplied by the gross receipts of the retailer of the specified digital products.
2. The tax imposed by subsection 1 applies whether the purchaser obtains permanent use or less than permanent use of the specified digital product, whether the sale is conditioned or not conditioned upon continued payment
from the purchaser and whether the sale is on a subscription basis or is not on a subscription basis.

Sec. 25. The tax imposed by section 24 of this act must be collected by the retailer from the end user insofar as it can be done.

Sec. 26. 1. It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the specified digital products sold or that, if added, it or any part thereof will be refunded.

2. Any person violating any provision of this section is guilty of a misdemeanor.

Sec. 27. 1. A person shall not engage in or conduct business as a seller in this State unless the person has:

(a) Registered with the Department pursuant to NRS 360B.200; or
(b) Obtained a permit issued by the Department.

2. Every application for a permit must:

(a) Be made upon a form prescribed by the Department.
(b) Set forth the name under which the applicant transacts or intends to transact business and the location of the applicant’s place or places of business.

(c) Set forth any other information which the Department may require.
(d) Be accompanied by a fee of $5.
(e) Be signed by:

(1) The owner if he or she is a natural person;
(2) A member or partner if the seller is an association or partnership; or
(3) An executive officer or some person specifically authorized to sign the application if the seller is a corporation. Written evidence of the signer’s authority must be attached to the application.

Sec. 28. 1. If the holder of a permit issued pursuant to this chapter fails to comply with any provision of this chapter or any regulation adopted pursuant thereto, the Department may revoke or suspend any one or more of the permits held by the person. Before doing so, the Department must hold a hearing after giving 10 days’ written notice to the holder of the permit. The notice must specify the time and place of the hearing and require the holder of the permit to show cause why the permit should not be suspended or revoked.

2. If a permit is suspended or revoked, the Department must give written notice of the action to the holder of the permit.

3. The notices required by this section may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

4. The Department shall not issue a new permit after the revocation of a permit unless the Department is satisfied that the former holder of the permit will comply with the provisions of this chapter and the regulations of the Department adopted pursuant thereto.
5. A retailer whose permit has been suspended or revoked must pay the Department a fee of $5 for the reinstatement of the permit or the issuance of a new permit.

Sec. 29. For the purpose of the proper administration of this chapter and to prevent evasion of the tax imposed by section 24 of this act, it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of specified digital products is not a sale at retail is upon the person who makes the sale unless the person takes from the purchaser a certificate to the effect that the specified digital products were purchased by an end user and the purchaser:

1. Is engaged in the business of commercial broadcasting, rebroadcasting, transmitting, retransmitting, licensing, relicensing, distributing, redistributing or exhibiting specified digital products, in whole or in part, to another person or persons;
2. Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to section 27 of this act, if required; and
3. At the time of purchasing the specified digital product, intends to broadcast, rebroadcast, transmit, retransmit, license, relicense, distribute, redistribute or exhibit the specified digital product in the regular course of business or is unable to ascertain at the time of purchase whether the specified digital product will be used for such a purpose or will be used for some other purpose.

Sec. 30. A resale certificate must:
1. Be substantially in such form and include such information as the Department may prescribe; and
2. Unless submitted in electronic form, be signed by the purchaser.

Sec. 31. 1. If a purchaser who gives a resale certificate makes any use of specified digital products other than the commercial broadcasting, rebroadcasting, transmitting, retransmitting, licensing, relicensing, distributing, redistributing or exhibiting of the specified digital products, in whole or in part, to another person or persons in the regular course of business:

(a) The use is taxable to the purchaser as of the time one of the specified digital products is first so used by the purchaser, and the sales price of the specified digital products to the purchaser is the measure of the tax.

(b) The seller is liable for the tax with respect to the sale of the specified digital products to the purchaser only if:

(1) There is an unsatisfied use tax liability pursuant to paragraph (a); and

(2) The seller fraudulently failed to collect the tax or solicited the purchaser to provide the resale certificate unlawfully.

2. As used in this section, “seller” includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a seller who is registered pursuant to NRS 360B.200.
Sec. 32. Any person who gives a resale certificate for specified digital products which the person knows at the time of purchase is not to be further broadcast, rebroadcast, transmitted, retransmitted, licensed, relicensed, distributed, redistributed or exhibited by the person in the regular course of business for the purpose of evading payment to the seller of the amount of the tax applicable to the transaction is guilty of a misdemeanor.

Sec. 33. 1. An excise tax is hereby imposed on the use in this State of specified digital products purchased and electronically transferred from any retailer on or after January 1, 2022, in a retail sale that takes place in this State, as set forth in section 23 of this act, for use in this State at a rate equal to the sum of the rates of all taxes imposed upon the storage, use or other consumption of tangible personal property in the county in which the retail sale takes place, as set forth in section 23 of this act.

2. The tax is imposed with respect to all specified digital products which were electronically transferred in a transaction that is taxable pursuant to this chapter but for which the tax imposed by section 24 of this act was not collected.

Sec. 34. Every person storing, using or otherwise consuming in this State specified digital products purchased from a retailer is liable for the tax. The liability of a person pursuant to this section is not extinguished until the tax has been paid to this State, except that a receipt from a retailer given to the purchaser pursuant to section 35 of this act is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

Sec. 35. Every retailer maintaining a place of business in this State and making sales of specified digital products for use in this State, not exempted by this chapter, shall, at the time of making the sales or, if the use of the specified digital products is not then taxable hereunder, at the time the use becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the Nevada Tax Commission.

Sec. 36. The tax required to be collected by the retailer constitutes a debt owed by the retailer to this State.

Sec. 37. It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the specified digital products sold or that, if added, it or any part thereof will be refunded.

Sec. 38. The tax required pursuant to this chapter to be collected by the retailer from the purchaser must be displayed separately from the list price, the price advertised in the premises, the marked price, or any other price on the sales check or other proof of sale.

Sec. 39. Any person who violates section 35, 37 or 38 of this act is guilty of a misdemeanor.
Sec. 40. 1. Every retailer who sells specified digital products for use in this State shall register with the Department and give:
   (a) The name and address of all agents operating in this State.
   (b) The location of all offices or other places of business in this State.
   (c) Such other information as the Department may require.

2. Every business that purchases specified digital products for use in this State shall, at the time the business obtains a state business license pursuant to chapter 76 of NRS, register with the Department on a form prescribed by the Department. As used in this subsection, “business” has the meaning ascribed to it in NRS 76.020.

Sec. 41. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that specified digital products sold by any person for delivery in this State are sold for use in this State until the contrary is established. The burden of proving that a sale of specified digital products is not a sale at retail is upon the person who makes the sale unless the person takes from the purchaser a certificate to the effect that the specified digital products were purchased by an end user and the purchaser:
   1. Is engaged in the business of commercial broadcasting, rebroadcasting, transmitting, retransmitting, licensing, relicensing, distributing, redistributing or exhibiting specified digital products, in whole or in part, to another person or persons;
   2. Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to section 27 of this act, if required; and
   3. At the time of purchasing the specified digital products, intends to broadcast, rebroadcast, transmit, retransmit, license, relicense, distribute, redistribute or exhibit the specified digital products in the regular course of business or is unable to ascertain at the time of purchase whether the specified digital products will be used for such a purpose or will be used for some other purpose.

Sec. 42. A resale certificate must:
   1. Be substantially in such form and include such information as the Department may prescribe; and
   2. Unless submitted in electronic form, be signed by the purchaser.

Sec. 43. If a purchaser who gives a resale certificate makes any use of the specified digital products other than the commercial broadcasting, rebroadcasting, transmitting, retransmitting, licensing, relicensing, distributing, redistributing or exhibiting of the specified digital products, in whole or in part, to another person or persons in the regular course of business, the use is taxable as of the time any of the specified digital products is first so stored or used.

Sec. 44. As used in sections 44 to 56, inclusive, of this act, “exempted from the taxes imposed by this chapter” means exempted from the computation of the amount of taxes imposed.
Sec. 45. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the use in this State of, specified digital products the gross receipts from the sale of which, or the use of which, this State is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this State.

Sec. 46. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of specified digital products that are textbooks sold within the Nevada System of Higher Education.

Sec. 47. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the use in this State of, specified digital products which is a newspaper regularly issued at average intervals not exceeding 1 week and any such newspaper.

Sec. 48. There are exempted from the taxes imposed by this chapter the gross receipts from occasional sales of specified digital products and the use in this State of specified digital products, the transfer of which to the purchaser is an occasional sale.

Sec. 49. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of any specified digital products to:
1. The United States, its unincorporated agencies and instrumentalities.
2. Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.
3. The State of Nevada, its unincorporated agencies and instrumentalities.
4. Any county, city, district or other political subdivision of this State.

Sec. 50. There are exempted from the taxes imposed by this chapter the gross receipts from the sale of, and the use in this State of, any specified digital products sold by or to a nonprofit organization created for religious, charitable or educational purposes. The Legislature shall establish:
1. Standards for determining whether an organization is created for religious, charitable or educational purposes.
2. Procedures for administering the provisions of this section.

Sec. 51. 1. For the purposes of section 50 of this act, an organization is created for religious purposes if:
(a) It complies with the requirements set forth in subsection 5; and
(b) The sole or primary purpose of the organization is the operation of a church, synagogue or other place of religious worship at which nonprofit religious services and activities are regularly conducted. Such an organization includes, without limitation, an integrated auxiliary or affiliate of the organization, men’s, women’s or youth groups established by the organization, a school or mission society operated by the organization, an organization of local units of a church and a convention or association of churches.
3. An organization is created for charitable purposes if:
   (a) It complies with the requirements set forth in subsection 5;
   (b) The sole or primary purpose of the organization is to:
      (1) Advance a public purpose, donate or render gratuitously or at a reduced rate a substantial portion of its services to the persons who are the subjects of its charitable services, and benefit a substantial and indefinite class of persons who are the legitimate subjects of charity;
      (2) Provide services that are otherwise required to be provided by a local government, this State or the Federal Government; or
      (3) Operate a hospital or medical facility licensed pursuant to chapter 449 or 450 of NRS; and
   (c) The organization is operating in this State.
4. An organization is created for educational purposes if:
   (a) It complies with the requirements set forth in subsection 5; and
   (b) The sole or primary purpose of the organization is to:
      (1) Provide athletic, cultural or social activities for children;
      (2) Provide displays or performances of the visual or performing arts to members of the general public;
      (3) Provide instruction and disseminate information on subjects beneficial to the community;
      (4) Operate a school, college or university located in this State that conducts regular classes and provides courses of study required for accreditation or licensing by the State Board of Education or the Commission on Postsecondary Education, or for membership in the Northwest Accreditation Commission or accreditation by the Northwest Commission on Colleges and Universities;
      (5) Serve as a local or state apprenticeship committee to advance programs of apprenticeship in this State; or
      (6) Sponsor programs of apprenticeship in this State through a trust created pursuant to 29 U.S.C. § 186.
5. In addition to the requirements set forth in subsection 2, 3 or 4, an organization is created for religious, charitable or educational purposes if:
   (a) No part of the net earnings of any such organization inures to the benefit of a private shareholder, individual or entity;
   (b) The business of the organization is not conducted for profit;
   (c) No substantial part of the business of the organization is devoted to the advocacy of any political principle or the defeat or passage of any state or federal legislation;
   (d) The organization does not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office; and
   (e) Any property sold to the organization for which an exemption is claimed is used by the organization in this State in furtherance of the religious, charitable or educational purposes of the organization.
Sec. 52. There are exempted from the taxes imposed by this chapter on the use of specified digital products any such products loaned or donated to:
1. The United States, its unincorporated agencies and instrumentalities.
2. Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.
3. The State of Nevada, its unincorporated agencies and instrumentalities.
4. Any county, city, district or other political subdivision of this State.
5. Any organization created for religious, charitable or eleemosynary purposes, provided that no part of the net earnings of any such organization inures to the benefit of any private shareholder or individual.

Sec. 53. The use in this State of specified digital products, the gross receipts from the sale of which are required to be included in the measure of the tax imposed by section 24 of this act, is exempted from the tax imposed by section 33 of this act.

Sec. 54. 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such information from the purchaser as is required by the Department.
2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.
3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.
4. A retailer shall maintain such records of exempt transactions as are required by the Department and provide those records to the Department upon request.
5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer:
   (a) Fraudulently fails to collect the tax;
   (b) Solicits a purchaser to participate in an unlawful claim of an exemption; or
   (c) Accepts a certificate of exemption from a purchaser who claims an entity-based exemption, the subject of the transaction sought to be covered by the certificate is actually received by the purchaser at a location operated by the seller, and the Department provides, and posts on a website or other Internet site that is operated or administered by or on behalf of the Department, a certificate of exemption which clearly and affirmatively indicates that the claimed exemption is not available.
6. As used in this section:
(a) “Entity-based exemption” means an exemption based on who purchases the product or who sells the product, and which is not available to all.
(b) “Retailer” includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.

Sec. 55. 1. Any nonprofit organization created for religious, charitable or educational purposes that wishes to claim an exemption pursuant to section 50 of this act, must file an application with the Department to obtain a letter of exemption. The application must be on a form and contain such information as is required by the Department.

2. If the Department determines that the organization is created for religious, charitable or educational purposes, it shall issue a letter of exemption to the organization. The letter of exemption expires 5 years after the date on which it is issued by the Department. At least 90 days before the expiration of the letter of exemption, the Department shall notify the organization to whom the letter was issued of the date on which the letter will expire. The organization may renew its letter of exemption for an additional 5 years by filing an application for renewal with the Department. The application for renewal must be on a form and contain such information as is required by the Department.

3. To claim an exemption pursuant to section 50 of this act for the sale of specified digital products to such an organization:
(a) The organization must give a copy of its letter of exemption to the retailer from whom the organization purchases the product; and
(b) The retailer must retain and present upon request a copy of the letter of exemption.

4. The Department shall adopt such regulations as are necessary to carry out the provisions of this section.

Sec. 56. If a purchaser certifies in writing to a seller that the specified digital products purchased will be used in a manner or for a purpose entitling the seller to regard the gross receipts from the sale as exempted by this chapter from the computation of the amount of the taxes imposed by this chapter, and uses the specified digital products in some other manner or for some other purpose, the purchaser shall be liable for payment of the tax as if the purchaser were a retailer making a retail sale of the specified digital products at the time of such use, and the cost of the specified digital products to the purchaser shall be deemed the gross receipts from such retail sale.

Sec. 57. A retailer shall hold the amount of all taxes collected pursuant to this chapter in a separate account in trust for the State.

Sec. 58. Except as otherwise provided in section 65 of this act or required by the Department pursuant to NRS 360B.200, the taxes imposed by this chapter are due and payable to the Department monthly on or before the last day of the month next succeeding each month.
Sec. 59. Except as otherwise required by the Department pursuant to NRS 360B.200:

1. On or before the last day of the month following each reporting period, a return for the preceding period must be filed with the Department in such form and manner as the Department may prescribe. Any return required to be filed by this section must be combined with any return required to be filed pursuant to the provisions of chapters 372 and 374 of NRS.

2. For purposes of:
   (a) The tax imposed by section 24 of this act, a return must be filed by each seller.
   (b) The tax imposed by section 33 of this act, a return must be filed by each retailer maintaining a place of business in the State and by each person purchasing specified digital products, the use of which is subject to the use tax, who has not paid the use tax due.

3. Unless filed electronically, returns must be signed by the person required to file the return or by his or her authorized agent but need not be verified by oath.

Sec. 60. 1. Except as otherwise required by the Department pursuant to NRS 360B.200:

(a) For the purposes of the tax imposed by section 24 of this act:
   (1) The return must show the gross receipts of the seller during the preceding reporting period.
   (2) The gross receipts must be segregated and reported separately for each county to which a sale of specified digital products pertains.
   (3) A sale pertains to the county in this State in which the retail sale of specified digital products takes place as determined pursuant to section 23 of this act.
   (b) For purposes of the tax imposed by section 33 of this act:
      (1) In the case of a return filed by a retailer, the return must show the total sales price of the specified digital products purchased by the retailer, the use of which specified digital products became subject to the use tax during the preceding reporting period.
      (2) The sales price must be segregated and reported separately for each county to which a purchase of specified digital products pertains.
      (3) If the specified digital products were:
         (I) Brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property is or will be first used, stored or otherwise consumed.
         (II) Not brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property was delivered to the purchaser or his or her agent or designee.

2. In case of a return filed by a purchaser, the return must show the total sales price of the specified digital products purchased by the purchaser, the use of which became subject to the tax imposed by section 24 of this act during
the preceding reporting period and indicate the county in this State in which
the specified digital products were first used, stored or consumed.
3. The return must also show the amount of the taxes for the period
covered by the return and such other information as the Department deems
necessary for the proper administration of this chapter.
4. Except as otherwise provided in subsection 5, upon determining that a
retailer has filed a return which contains one or more violations of the
provisions of this section, the Department shall:
   (a) For the first return of any retailer which contains one or more
violations, issue a letter of warning to the retailer which provides an
explanation of the violation or violations contained in the return.
   (b) For the first or second return, other than a return described in
paragraph (a), in any calendar year which contains one or more violations,
assess a penalty equal to the amount of the tax which was not reported or was
reported for the wrong county or $1,000, whichever is less.
   (c) For the third and each subsequent return in any calendar year which
contains one or more violations, assess a penalty of three times the amount of
the tax which was not reported or was reported for the wrong county or
$3,000, whichever is less.
5. For the purposes of subsection 4, if the first violation of this section by
any retailer was determined by the Department through an audit which
covered more than one return of the retailer, the Department shall treat all
returns which were determined through the same audit to contain a violation
or violations in the manner provided in paragraph (a) of subsection 4.
Sec. 61. In determining the amount of taxes due pursuant to this chapter:
1. The amount due must be computed to the third decimal place and
rounded to a whole cent using a method that rounds up to the next cent if the
numeral in the third decimal place is greater than 4.
2. A retailer may compute the amount due on a transaction on the basis of
each item involved in the transaction or a single invoice for the entire
transaction.
Sec. 62. 1. If a retailer is unable to collect all or part of the sales price
of a sale, the retailer is entitled to receive a deduction from his or her taxable
sales for that bad debt.
2. Any deduction that is claimed pursuant to this section may not include
interest.
3. The amount of any deduction claimed must equal the amount of a
deduction that may be claimed pursuant to section 166 of the Internal Revenue
Code, 26 U.S.C. § 166, for that sale minus:
   (a) Any finance charge or interest charged as part of the sale;
   (b) Any tax imposed by this chapter charged on the sales price;
   (c) Any amount not paid on the sales price because the specified digital
product that was sold was not delivered until the full sales price is paid; and
   (d) Any expense incurred in attempting to collect the bad debt.
4. A bad debt may be claimed as a deduction on the return that covers the period during which the bad debt is written off in the business records of the retailer that are maintained in the ordinary course of the retailer’s business and is eligible to be claimed as a deduction pursuant to section 166 of the Internal Revenue Code, 26 U.S.C. § 166, or if the retailer is not required to file a federal income tax return, would be eligible to be claimed as a deduction pursuant to section 166 of the Internal Revenue Code, 26 U.S.C. § 166.

5. If a bad debt for which a deduction has been claimed is subsequently collected in whole or in part, the tax on the amount so collected must be reported on the return that covers the period in which the collection is made.

6. If the amount of the bad debt is greater than the amount of the taxable sales reported for the period during which the bad debt is claimed as a deduction, a claim for a refund may be filed pursuant to NRS 372.630 to 372.720, inclusive, except that the time within which the claim may be filed begins on the date on which the return that included the deduction was filed.

7. If the retailer has contracted with a certified service provider for the remittance of the tax due under this chapter, the service provider may, on behalf of the retailer, claim any deduction to which the retailer is entitled pursuant to this section. The service provider shall credit or refund the full amount of any deduction or refund received pursuant to this section to the retailer.

8. For the purposes of reporting a payment received on a bad debt for which a deduction has been claimed, the payment must first be applied to the sales price of the specified digital products sold and the tax due thereon, and then to any interest, service charge or other charge that was charged as part of the sale.

9. If the records of a retailer indicate that a bad debt may be allocated among other states that are members of the Streamlined Sales and Use Tax Agreement, the retailer may allocate the bad debt among those states.

10. A retailer who assigns a debt to an entity which is part of an affiliated group that includes the retailer, may claim any deduction or refund to which the retailer would otherwise be entitled pursuant to this section, notwithstanding:

(a) The assignment of the debt to the entity;
(b) That the debt is written off as a bad debt in the business records of the entity which are maintained in the ordinary course of the entity’s business; and
(c) That the bad debt is or would be eligible to be claimed by the entity as a deduction pursuant to section 166 of the Internal Revenue Code, 26 U.S.C. § 166.

11. Except as otherwise provided in subsection 12, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:
(a) For the first return of any retailer which contains one or more violations, issue a letter of warning to the retailer which provides an explanation of the violation or violations contained in the return.

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the deduction claimed or $1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the deduction claimed or $3,000, whichever is less.

12. For the purposes of subsection 11, if the first violation of this section by any retailer was determined by the Department through an audit which covered more than one return of the retailer, the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection 11.

13. As used in this section:
   (a) “Affiliated group” means:
      1. An affiliated group as defined in section 1504(a) of the Internal Revenue Code, 26 U.S.C. § 1504(a); or
   (b) “Bad debt” means a debt that may be deducted pursuant to section 166 of the Internal Revenue Code, 26 U.S.C. § 166.
   (c) “Certified service provider” has the meaning ascribed to it in NRS 360B.060.

Sec. 63. 1. Except as otherwise provided in subsection 2, if the taxes imposed by this chapter are paid in accordance with section 58 of this act, a taxpayer may deduct and withhold from the taxes otherwise due from the taxpayer 0.25 percent of those taxes as reimbursement for the cost of collecting the tax.

2. The regulations adopted by the Nevada Tax Commission pursuant to NRS 360B.110 may authorize the deduction and withholding from the taxes otherwise due from a taxpayer such other amounts as are required to carry out the Streamlined Sales and Use Tax Agreement.

Sec. 64. 1. Except as otherwise authorized or required by the Department, the person required to file a return shall deliver the return together with a remittance of the amount of the tax due to the Department.

2. The Department shall provide for the acceptance of credit cards, debit cards or electronic transfers of money for the payment of the tax due in the manner prescribed pursuant to NRS 360.092.

Sec. 65. 1. Except as otherwise provided in this section or required by the Department pursuant to NRS 360B.200, the reporting and payment period of:
(a) A taxpayer whose taxable sales do not exceed $10,000 per month is a calendar quarter.
(b) A taxpayer who files reports on a quarterly basis in accordance with paragraph (a) and:
   (1) From whom no tax is due pursuant to this chapter for the immediately preceding three quarterly reporting periods; or
   (2) Whose taxable sales do not exceed a total amount of $1,500 for the immediately preceding four quarterly reporting periods,
   is 12 calendar months, unless the taxable sales of the taxpayer exceed a total amount of $1,500 for such a 12-month reporting and payment period or $10,000 for a calendar month.

2. The Department, if it deems this action necessary to ensure payment to or facilitate the collection by the State of the amount of taxes, may require returns and payment of the amount of taxes for periods other than calendar months or quarters, depending upon the principal place of business of the seller, retailer or purchaser, as the case may be, or for other than monthly, quarterly or annual periods.

Sec. 66. For the purposes of the tax imposed by section 24 of this act, gross receipts from rentals or leases of specified digital products must be reported and the tax paid in accordance with such regulations as the Department may prescribe.

Sec. 67. The Department for good cause may extend for not to exceed 1 month the time for making any return or paying any amount required to be paid under this chapter.

Sec. 68. 1. The Department, whenever it deems it necessary to ensure compliance with this chapter, may require any person subject to the chapter to place with it such security as the Department may determine. The Department shall fix the amount of the security which, except as otherwise provided in subsection 2, may not be greater than twice the estimated average tax due quarterly of persons filing returns for quarterly periods, three times the estimated average tax due monthly of persons filing returns for monthly periods or four times the estimated average tax due annually of persons filing returns for annual periods, determined in such a manner as the Department deems proper.

2. In the case of persons who are habitually delinquent in their obligations under this chapter, the amount of the security may not be greater than three times the average actual tax due quarterly of persons filing returns for quarterly periods, five times the average actual tax due monthly of persons filing returns for monthly periods or seven times the average actual tax due annually of persons filing returns for annual periods.

3. The limitations provided in this section apply regardless of the type of security placed with the Department.

4. The amount of the security may be increased or decreased by the Department subject to the limitations provided in this section.
5. The Department may sell the security at public auction if it becomes necessary to recover any tax or any amount required to be collected, or interest or penalty due. Notice of the sale may be served upon the person who placed the security personally or by mail. If the notice is served by mail, service must be made in the manner prescribed for service of a notice of a deficiency determination and must be addressed to the person at his or her address as it appears in the records of the Department. Security in the form of a bearer bond issued by the United States or the State of Nevada which has a prevailing market price may be sold by the Department at a private sale at a price not lower than the prevailing market price.

6. Upon any sale any surplus above the amounts due must be returned to the person who placed the security.

Sec. 69. 1. If the Department determines that any amount, penalty or interest has been paid more than once or has been erroneously or illegally collected or computed, the Department shall set forth that fact in the records of the Department and certify to the State Board of Examiners the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid. If approved by the State Board of Examiners, the excess amount collected or paid must, after being credited against any amount then due from the person in accordance with NRS 360.236, be refunded to the person, or his or her successors, administrators or executors.

2. Any overpayment of the tax imposed by section 33 of this act by a purchaser to a retailer who is required to collect the tax and who gives the purchaser a receipt therefor pursuant to sections 33 to 43, inclusive, of this act must be credited or refunded by the State to the purchaser, subject to the requirements of NRS 360.236.

Sec. 70. Except as otherwise provided in NRS 360.235 and 360.395 and section 62 of this act:

1. No refund may be allowed unless a claim for it is filed with the Department within 3 years after the last day of the month following the close of the period for which the overpayment was made.

2. No credit may be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the Department within that period, or unless the credit relates to a period for which a waiver is given pursuant to NRS 360.355.

Sec. 71. No credit or refund of any amount paid pursuant to sections 33 to 43, inclusive, of this act may be allowed on the ground that the use of the specified digital products is exempted pursuant to section 53 of this act, unless the person who paid the amount reimburses the vendor of the specified digital products for the amount of the tax imposed by section 24 of this act upon the vendor of the specified digital products with respect to the sale of the specified digital products and paid by the vendor to the State.

Sec. 72. Every claim must be in writing and state the specific grounds upon which the claim is founded.
Sec. 73. Failure to file a claim within the time prescribed in section 70 of this act constitutes a waiver of any demand against the State on account of overpayment.

Sec. 74. Within 30 days after disallowing any claim in whole or in part, the Department shall serve notice of its action on the claimant in the manner prescribed for service of notice of a deficiency determination.

Sec. 75. Except as otherwise provided in NRS 360.320 or any other specific statute, interest must be paid upon any overpayment of any amount of tax at the rate set forth in, and in accordance with the provisions of, NRS 360.2937.

Sec. 76. If the Department determines that any overpayment has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.

Sec. 77. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State, a county or any officer thereof to prevent or enjoin the collection under this chapter of any tax or any amount of tax required to be collected.

Sec. 78. No suit or proceeding shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed.

Sec. 79. 1. Within 90 days after a final decision upon a claim filed pursuant to this chapter is rendered by the Nevada Tax Commission, the claimant may bring an action against the Department on the grounds set forth in the claim in a court of competent jurisdiction in Carson City, the county of this State where the claimant resides or maintains his or her principal place of business or a county in which any relevant proceedings were conducted by the Department, for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

2. Failure to bring an action within the time specified constitutes a waiver of any demand against the State on account of alleged overpayments.

Sec. 80. If the Department fails to mail notice of action on a claim within 6 months after the claim is filed, the claimant may consider the claim disallowed and file an appeal with a hearing officer within 45 days after the last day of the 6-month period. If the claimant is aggrieved by the decision of the hearing officer on appeal, the claimant may, pursuant to the provisions of NRS 360.245, appeal the decision to the Nevada Tax Commission. If the claimant is aggrieved by the decision of the Commission on appeal, the claimant may, within 45 days after the decision is rendered, bring an action against the Department on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

Sec. 81. 1. If judgment is rendered for the plaintiff, the amount of the judgment must first be credited as follows:
(a) If the judgment is for a refund of tax imposed by section 24 of this act, it must be credited on any amount of tax due from the plaintiff pursuant to this chapter.

(b) If the judgment is for a refund of the tax imposed by section 33 of this act, it must be credited on any amount of that tax due from the plaintiff pursuant to this chapter.

2. The balance of the judgment must be refunded to the plaintiff.

Sec. 82. In any judgment, interest shall be allowed at the rate of 3 percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the Department.

Sec. 83. A judgment shall not be rendered in favor of the plaintiff in any action brought against the Department to recover any amount paid when the action is brought by or in the name of an assignee of the person paying the amount or by any person other than the person who paid the amount.

Sec. 84. The Department may recover any refund or part of it which is erroneously made and any credit or part of it which is erroneously allowed in an action brought in a court of competent jurisdiction in Carson City or Clark County in the name of the State of Nevada.

Sec. 85. The action must be tried in Carson City or Clark County unless the court, with the consent of the Attorney General, orders a change of place of trial.

Sec. 86. The Attorney General shall prosecute the action, and the provisions of NRS, the Nevada Rules of Civil Procedure and the Nevada Rules of Appellate Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings.

Sec. 87. 1. If any amount in excess of $25 has been illegally determined, either by the person filing the return or by the Department, the Department shall certify this fact to the State Board of Examiners, and the latter shall authorize the cancellation of the amount upon the records of the Department.

2. If an amount not exceeding $25 has been illegally determined, either by the person filing a return or by the Department, the Department, without certifying this fact to the State Board of Examiners, shall authorize the cancellation of the amount upon the records of the Department.

Sec. 88. This chapter must be administered in accordance with the provisions of chapter 360B of NRS.

Sec. 89. 1. The provisions of this chapter relating to:

(a) The imposition, collection and remittance of the tax imposed by section 24 of this act apply to every retailer whose activities have a sufficient nexus with this State to satisfy the requirements of the United States Constitution.
The collection and remittance of the tax imposed by section 33 of this act apply to every retailer whose activities have a sufficient nexus with this State to satisfy the requirements of the United States Constitution.

2. 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 subsection 1.

Sec. 90. As used in sections 90 to 97, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 91, 92 and 93 of this act have the meanings ascribed to them in those sections.

Sec. 91. “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. 92. 1. “Marketplace facilitator” means a person, including any affiliate of the person, who:

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

(1) Lists, makes available or advertises specified digital products for sale by a marketplace seller in a marketplace owned, operated or controlled by the person;

(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 specified digital products between a marketplace seller and a purchaser in a forum including a shop, store, booth, catalog, Internet site or similar forum;

(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 specified digital products;

(4) Provides a marketplace for making retail sales of specified digital products, or otherwise facilitates retail sales of specified digital products, regardless of ownership or control of the specified digital products that are the subject of the retail sale;

(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;

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

(7) Sets prices for the sale of specified digital products by a marketplace seller;
(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 specified digital products sold by a marketplace seller; or

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

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

(1) Collects the sales price or purchase price of a retail sale of specified digital products;

(2) Provides payment processing services for a retail sale of specified digital products;

(3) Charges, collects or otherwise receives selling fees, listing fees, referral fees, closing fees, fees for inserting or making available specified digital products on a marketplace or other consideration from the facilitation of a retail sale of specified digital products, regardless of ownership or control of the specified digital products that are the subject of the retail sale;

(4) Through terms and conditions, agreements or arrangements with a third party, collects payment in connection with a retail sale of specified digital products 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) Provides a virtual currency that purchasers are allowed or required to use to purchase specified digital products.

2. The term does not include 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:

(a) Transmit or otherwise communicate an offer or acceptance of a retail sale of specified digital products between a marketplace seller and a purchaser; and

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

3. The term includes a provider of direct broadcast satellite service as defined in 47 U.S.C. § 335(b)(5) or a cable operator as defined in 47 U.S.C. § 522(5) who meets the definition of “marketplace facilitator” provided in subsection 1, including, without limitation, by facilitating the retail sale of a software application of a marketplace seller which may be accessed through the digital platform owned, operated or controlled by the provider of direct broadcast satellite service or cable operator. A provider of direct broadcast satellite service or cable operator is not a marketplace facilitator with respect to a software application of a marketplace seller which may be accessed through the digital platform owned, operated or controlled by the provider of direct broadcast satellite service or cable operator for no additional charge.

Sec. 93. “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. 94. 1. Except as otherwise provided in this section and section 95 of this act, the provisions of this chapter relating to the imposition, collection and remittance of the tax imposed by section 24 of this act, and the collection and remittance of the tax imposed by section 33 of this act, apply to a marketplace facilitator during a calendar year in which or during a calendar year immediately following any calendar year in which:
(a) The cumulative gross receipts from retail sales of tangible personal property and specified digital products 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 of tangible personal property or specified digital products 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 tax imposed by section 24 of this act and the collection and remittance of the tax imposed by section 33 of this act do not apply to a marketplace facilitator described in subsection 1 if:
(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 tax imposed by section 24 of this act, and the collection and remittance of the tax imposed by section 33 of this act, for retail sales made by the marketplace seller through the marketplace facilitator; and
(b) The marketplace seller has obtained a permit pursuant to section 27 of this act 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 section 27 of this act or registered pursuant to NRS 360B.200.
3. Except as otherwise provided in this section and section 95 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 section 27 of this act; or

(c) The amount of the sales price of a retail sale 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. 95. 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;

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

(c) The failure to collect the tax imposed by section 24 of this act and the tax imposed by section 33 of this act 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 2022 and 2023 calendar years, respectively, must not exceed 5 percent of the total tax imposed by sections 24 and 33 of this act 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.
4. If a marketplace facilitator is relieved of liability for the collection and remittance of any amount of the tax imposed by section 24 of this act or the tax imposed by section 33 of this act 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 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. 96. 1. 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 tax imposed by section 24 of this act and the collection and remittance of the tax imposed by section 33 of this act apply to a referrer during a calendar year in which, or during a calendar year immediately following any calendar year in which:

(a) The cumulative gross receipts from retail sales of tangible personal property and specified digital products 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 of tangible personal property or specified digital products to customers in this State resulting from referrals from a platform of the referrer.

2. 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 tax imposed by section 24 of this act, and the collection and remittance of the tax imposed by section 33 of this act 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 tax imposed by sections 24 and 33 of this act 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 the tax imposed by sections 24 and 33 of this act on a purchase;

(3) A statement that Nevada requires the purchaser to pay the tax imposed by sections 24 and 33 of this act and file a return for such taxes if the tax imposed by sections 24 and 33 of this act 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 the tax imposed by sections 24 and 33 of this act;

(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 the tax imposed by sections 24 and 33 of this act 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 the tax imposed by sections 24 and 33 of this act; and

(3) Instructions for obtaining additional information from the Department regarding the collection and remittance of the tax imposed by sections 24 and 33 of this act; and

(c) The referrer provides the Department with periodic reports in an electronic format and in the manner prescribed by the Department, which 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 the tax imposed by sections 24 and 33 of this act 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 notice and reporting requirements of this subsection.

3. 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. 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 specified digital 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 specified digital products 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 the tax imposed by sections 24 and 33 of this act;
   (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 the tax imposed by sections 24 and 33 of this act.
Sec. 97. 1. Nothing in sections 90 to 97, 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 applies to or otherwise limits:
   (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 sections 69 to 87, inclusive, of this act.
Sec. 98. 1. Except as otherwise provided in this section, it is presumed that the provisions of this chapter relating to the imposition, collection and remittance of the tax imposed by section 24 of this act, and the collection and remittance of the tax imposed by section 33 of this act, apply to a retailer if:
   (a) The retailer is part of a controlled group of corporations that has a component member, other than a common carrier acting in its capacity as such, that has physical presence in this State; and
   (b) The component member with physical presence in this State:
      (1) Sells a similar line of products or services as the retailer and does so under a business name that is the same or similar to that of the retailer;
      (2) Maintains an office, distribution facility, warehouse or storage place or similar place of business in this State to facilitate the delivery of products or services sold by the retailer to the retailer’s customers;
(3) Uses trademarks, service marks or trade names in this State that are the same or substantially similar to those used by the retailer;
(4) Delivers, installs, assembles or performs maintenance services for the retailer's customers within this State;
(5) Facilitates the retailer's delivery of products or services to customers in this State by allowing the retailer's customers to pick up or receive products or services sold by the retailer at an office, distribution facility, warehouse, storage place or similar place of business maintained by the component member in this State; or
(6) Conducts any other activities in this State that are significantly associated with the retailer's ability to establish and maintain a market in this State for the retailer's products or services.

2. A retailer may rebut the presumption set forth in subsection 1 by providing proof satisfactory to the Department that, during the calendar year in question, the activities of the component member with physical presence in this State are not significantly associated with the retailer's ability to establish or maintain a market in this State for the retailer's products or services.

3. 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. As used in this section:
   (a) "Component member" has the meaning ascribed to it in section 1563(b) of the Internal Revenue Code, 26 U.S.C. § 1563(b), and includes any entity that, notwithstanding its form of organization, bears the same ownership relationship to the retailer as a corporation that would qualify as a component member of the same controlled group of corporations as the retailer.
   (b) "Controlled group of corporations" has the meaning ascribed to it in section 1563(a) of the Internal Revenue Code, 26 U.S.C. § 1563(a), and includes any entity that, notwithstanding its form of organization, bears the same ownership relationship to the retailer as a corporation that would qualify as a component member of the same controlled group of corporations as the retailer.

Sec. 99. 1. Except as otherwise provided in this section, it is presumed that the provisions of this chapter relating to:
   (a) The imposition, collection and remittance of the tax imposed by section 24 of this act; and
   (b) The collection and remittance of the tax imposed by section 33 of this act,
apply to every retailer who enters into an agreement with a resident of this State under which the resident, for a commission or other consideration based upon the sale of specified digital products by the retailer, directly or indirectly refers potential customers, whether by a link on an Internet website or otherwise, to the retailer, if the cumulative gross receipts from sales by the retailer to customers in this State who are referred to the retailer by all
residents with this type of agreement with the retailer is in excess of $10,000 during the preceding four quarterly periods ending on the last day of March, June, September and December.

2. A retailer may rebut the presumption set forth in subsection 1 by providing proof satisfactory to the Department that each resident with whom the retailer has an agreement did not engage in any activity in this State that was significantly associated with the retailer’s ability to establish or maintain a market in this State for the retailer’s products or services during the preceding four quarterly periods ending on the last day of March, June, September and December. Such proof may consist of the sworn written statements of each resident with whom the retailer has an agreement stating that the resident did not engage in any solicitation in this State on behalf of the retailer during the preceding four quarterly periods ending on the last day of March, June, September and December, if the statements were obtained from each resident and provided to the Department in good faith.

3. 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. 100. 1. The provisions of this chapter relating to the imposition, collection and remittance of the tax imposed by section 24 of this act, and the collection and remittance of the tax imposed by section 33 of this act apply to a retailer if, in the immediately preceding calendar year or the current calendar year:

(a) The gross revenue of the retailer from the retail sale of tangible personal property or specified digital products, or the total gross revenue of the retailer from the retail sale of tangible personal property and specified digital products, in transactions that took place in this State, as determined pursuant to NRS 360B.350 to 360B.375, inclusive, or section 23 of this act, as applicable, is greater than $100,000.

(b) The retailer had 200 or more transactions that took place in this State, as determined pursuant to NRS 360B.350 to 360B.375, inclusive, or section 23 of this act, as applicable, in which tangible personal property or specified digital products were sold at retail.

2. 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 subsection 1.

Sec. 101. 1. The Department shall enforce the provisions of this chapter and may adopt regulations relating to the administration and enforcement of this chapter.

2. The Department may prescribe the extent to which any regulation may be applied without retroactive effect.

Sec. 102. In administering the provisions of section 49 of this act, the Department shall apply the exemption for the sale of specified digital products
to the State of Nevada, its unincorporated agencies and instrumentalities to include all specified digital products that are sold to:

1. A member of the Nevada National Guard who is engaged in full-time National Guard duty, as defined in 10 U.S.C. § 101(d)(5) and has been called into active service.

2. A relative of a member of the Nevada National Guard eligible for the exemption pursuant to subsection 1 who:
   (a) Resides in the same home or dwelling in this State as the member; and
   (b) Is related by blood, adoption or marriage within the first degree of consanguinity or affinity to the member.

3. A relative of a deceased member of the Nevada National Guard who was engaged in full-time National Guard duty, as defined in 10 U.S.C. § 101(d)(5), and who was killed while performing his or her duties as a member of the Nevada National Guard during a period when the member was called into active service. To be eligible under this subsection, the relative must be a person who:
   (a) Resided in the same house or dwelling in this State as the deceased member; and
   (b) Was related by blood, adoption or marriage within the first degree of consanguinity or affinity to the deceased member.

Sec. 103. 1. A person who wishes to claim an exemption pursuant to section 102 of this act must file an application with the Department to obtain a letter of exemption. The application must be on a form and contain such information as is required by the Department.

2. If the Department determines that a person is eligible for the exemption provided pursuant to section 102 of this act, the Department shall issue a letter of exemption to the person. A letter of exemption issued to a member of the Nevada National Guard described in subsection 1 of section 102 of this act or a relative of a member described in subsection 2 of section 102 of this act expires on the date on which the person no longer meets the qualifications for eligibility. A letter of exemption issued to a relative of a deceased member of the Nevada National Guard described in subsection 3 of section 102 of this act expires on the date 3 years after the date of the death of the member.

3. To claim an exemption pursuant to section 102 of this act for the sale of specified digital products to such a person:
   (a) The person must provide a copy of the letter of exemption to the retailer from whom the person purchases the specified digital products; and
   (b) The retailer must retain and present upon request a copy of the letter of exemption to the Department.

4. The Department shall adopt such regulations as are necessary to carry out the provisions of this section.

Sec. 104. The Department may employ accountants, auditors, investigators, assistants and clerks necessary for the efficient administration of this chapter, and may delegate authority to its representatives to conduct
hearings, adopt regulations or perform any other duties imposed by this chapter.

Sec. 105. 1. Notwithstanding any other provision of law, any broadcaster, printer, outdoor advertising firm, advertising distributor or publisher which broadcasts, publishes, displays or distributes paid commercial advertising in this State which is intended to be disseminated primarily to persons located in this State and is only secondarily disseminated to bordering jurisdictions, including advertising appearing exclusively in a Nevada edition or section of a national publication, must be regarded, for the purposes set forth in subsection 2 only, as the agent of the person or entity placing the advertisement, and as a retailer maintaining a place of business in this State.

2. The agency created by this section is solely for the purpose of the proper administration of this chapter, to prevent evasion of the tax imposed by section 33 of this act and the duty to collect that tax, and to provide a presence in Nevada for the collection of the tax imposed by section 33 of this act by and from advertisers and sellers who do not otherwise maintain a place of business in this State. The agent has no responsibility to report, or liability to pay, any tax imposed under this chapter and is not restricted by the provisions of this chapter from accepting advertisements from advertisers or sellers who do not otherwise maintain a place of business in this State.

Sec. 106. 1. Every seller, every retailer, and every person storing, using or otherwise consuming in this State specified digital products purchased from a retailer shall keep records, receipts, invoices and other pertinent papers in such form as the Department may require.

2. Every seller, retailer or person who files the returns required under this chapter shall keep the records for not less than 4 years from their making unless the Department in writing sooner authorizes their destruction.

3. Every seller, retailer or person who fails to file the returns required under this chapter shall keep the records for not less than 8 years from their making unless the Department in writing sooner authorizes their destruction.

Sec. 107. 1. The Department, or any person authorized in writing by it, may examine the books, papers, records and equipment of any person selling specified digital products and any person liable for the tax imposed by section 33 of this act and may investigate the character of the business of the person to verify the accuracy of any return made, or, if no return is made by the person, to ascertain and determine the amount required to be paid.

2. Any person selling or purchasing specified digital products in this State who:

(a) Is required to:

   (1) Obtain a permit pursuant to section 27 of this act or register pursuant to NRS 360B.200; or

   (2) File a return pursuant to subsection 2 of section 59 of this act; and
(b) Keeps outside of this State his or her records, receipts, invoices and other documents relating to sales the person has made or the tax imposed by section 33 of this act due this State, shall pay to the Department an amount equal to the allowance provided for state officers and employees generally while traveling outside of the State for each day or fraction thereof during which an employee of the Department is engaged in examining those documents, plus any other actual expenses incurred by the employee while he or she is absent from his or her regular place of employment to examine those documents.

Sec. 108. In its administration of the tax imposed by section 33 of this act, the Department may require the filing of reports by any person or class of persons having in their possession or custody information relating to sales of specified digital products, the use of which is subject to the tax. The report must:

1. Be filed when the Department requires.
2. Set forth the names and addresses of purchasers of the specified digital products, the sales price of the specified digital products, the date of sale, and such other information as the Department may require.

Sec. 109. Any retailer or other person who fails or refuses to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the Department, or who renders a false or fraudulent return shall be fined not more than $500 for each offense.

Sec. 110. Any person required to make, render, sign or verify any report who makes any false or fraudulent report, with intent to defeat or evade the determination of an amount due required by law to be made, is guilty of a gross misdemeanor and shall for each offense be fined not less than $300 nor more than $5,000, or be imprisoned for not more than 364 days in the county jail, or be punished by both fine and imprisonment.

Sec. 111. Any violation of this chapter, except as otherwise provided, is a misdemeanor.

Sec. 112. Any prosecution for violation of any of the penal provisions of this chapter must be instituted within 3 years after the commission of the offense.

Sec. 113. In the determination of any case arising under this chapter, the rule of res judicata is applicable only if the liability involved is for the same period as was involved in another case previously determined.

Sec. 114. 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the State under this chapter must be paid to the Department in the form of remittances payable to the Department.
2. Except as otherwise provided in subsection 3, the Department shall deposit the payments in the State Treasury to the credit of each account in the State General Fund to which is credited a tax imposed upon sales at retail of tangible personal property and use tax due on the purchase of tangible personal property for use in this State, in the proportion that would be credited
to each account if the fees, taxes, interest and penalties imposed or required to be paid to the State under this chapter were a tax upon sales at retail of tangible personal property or use tax due on the purchase of tangible personal property for use in this State.

3. The payments pursuant to this chapter which, in the absence of this subsection, would be allocated pursuant to NRS 377.055 and 377.057 must instead be distributed to the county to which the underlying retail sale of specified digital products is deemed to take place pursuant to section 23 of this act.

Sec. 115. The money in the accounts described in subsection 2 of section 114 of this act may, upon order of the State Controller, be used for refunds under this chapter.

Sec. 116. The remedies of the State provided for in this chapter are cumulative, and no action taken by the Department or the Attorney General constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in this chapter.

Sec. 117. The imposition of taxes by this chapter, the categories of transactions upon which taxes are imposed and the specification of exemptions are exclusive. The Nevada Tax Commission and the Department shall not construe any provision of this chapter to authorize the imposition of a tax imposed by this chapter upon any transaction not expressly made taxable by this chapter.

Sec. 118. [Title 32 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 119 to 138, inclusive, of this act.] (Deleted by amendment.)

Sec. 119. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 120, 121 and 122 of this act have the meanings ascribed to them in those sections.] (Deleted by amendment.)

Sec. 120. [“Direct-to-home satellite television service” means television programming transmitted or broadcast by satellite directly to the customers’ premises without the use of ground receiving or distribution equipment, except at the customers’ premises or in the uplink process to the satellites.] (Deleted by amendment.)

Sec. 121. [“Taxpayer” means a person who provides direct-to-home satellite television service.] (Deleted by amendment.)

Sec. 122. [“Television programming” means multichannel television programming generally considered comparable to television programming delivered by a television broadcast station, cable service or other digital television service, whether provided as part of a tier, on demand or on a per-channel basis.] (Deleted by amendment.)

Sec. 123. [The provisions of chapter 266 of NRS relating to the payment, collection, administration and enforcement of taxes, including without limitation, any provisions relating to the imposition of penalties and interest, shall be deemed to apply to the payment, collection, administration and
enforcement of the excise taxes imposed by this chapter to the extent that those provisions do not conflict with the provisions of this chapter. (Deleted by amendment.)

Sec. 124. [The Department shall adopt all necessary regulations to carry out the provisions of this chapter.] (Deleted by amendment.)

Sec. 125. [Each person responsible for maintaining the records of a taxpayer shall:

(a) Keep such records or may be necessary to determine the amount of the liability of the taxpayer pursuant to the provisions of this chapter.

(b) Preserve those records for 4 years or until any litigation or prosecution pursuant to this chapter is finally determined, whichever is longer; and

(c) Make the records available for inspection by the Department upon demand at reasonable times during regular business hours.

2. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.] (Deleted by amendment.)

Sec. 126. [To verify the accuracy of any return filed by a taxpayer or, if no return is filed, to determine the amount required to be paid, the Department, or any person authorized in writing by the Department, may examine the books, papers and records of any person who may be liable for the excise taxes imposed by this chapter.

2. Any person who may be liable for the tax imposed by this chapter and who keeps outside of this State any books, papers and records relating thereto shall pay to the Department an amount equal to the allowance provided for state officers and employees generally while traveling outside of the State for each day or fraction thereof during which an employee of the Department is engaged in examining those documents, plus any other actual expenses incurred by the employee while the employee is absent from his or her regular place of employment to examine those documents.] (Deleted by amendment.)

Sec. 127. [Except as otherwise provided in subsection 4,

1. An excise tax is hereby imposed at the rate of 5 percent of the gross receipts derived from providing direct-to-home satellite television service to a customer in this State, including, without limitation, any separately stated charges billed to a customer for repair, maintenance and installation services or a contribution in aid of construction.

2. Each taxpayer shall file with the Department on or before the last day of each month, a report showing the amount of all taxable receipts for the preceding month. The report must be in a form prescribed by the Department.

3. Each report required to be filed by this section must be accompanied by the amount of the tax that is due for the period covered by the report.

4. The tax imposed by subsection 1 does not apply to gross receipts that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.] (Deleted by amendment.)
Sec. 128. 1. All taxes, interest and penalties imposed and all amounts of tax required to be paid pursuant to this chapter must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit all taxes, interest and penalties received pursuant to this chapter with the State Treasurer:

(a) For credit to the Account to Stabilize the Operation of the State Government created in the State General Fund by NRS 353.288, 50 percent of all taxes, interest and penalties received pursuant to this chapter, except that if the amount of such credit would cause the balance in the Account to Stabilize the Operation of the State Government to exceed the maximum balance established pursuant to subsection 1 of NRS 353.288, the amount of credit exceeding the maximum balance must be deposited for credit to the State General Fund.

(b) For credit to the State General Fund, the remainder of the taxes, interest and penalties received pursuant to this chapter. (Deleted by amendment.)

Sec. 129. For the purposes of this chapter, gross receipts derived from providing direct-to-home satellite television service shall be sourced to:

1. The customer’s business or home address, indicated in the business records of the taxpayer that are maintained in the ordinary course of the taxpayer’s business, unless the use of that address would constitute bad faith.

2. If subsection 1 does not apply, the address of the customer obtained during the consummation of the service contract, including, if no other address is available, the address of the customer’s instrument of payment, unless the use of an address pursuant to this subsection would constitute bad faith. (Deleted by amendment.)

Sec. 130. If the Department determines that the excise tax imposed by section 127 of this act or any penalty or interest has been paid more than once or has been erroneously or illegally collected or computed, the Department shall set forth that fact in the records of the Department and certify to the State Board of Examiners the amount collected in excess of the amount legally due and the person from whom it was collected or by whom it was paid. If approved by the State Board of Examiners, the excess amount collected or paid must, after being credited against any amount then due from the person in accordance with NRS 360.236, be refunded to the person or the person’s successors in interest. (Deleted by amendment.)

Sec. 131. 1. Except as otherwise provided in NRS 360.235 and 360.236:

(a) No refund of the excise tax imposed by section 127 of this act may be allowed unless a claim for a refund is filed with the Department within 3 years after the last day of the month following the month for which the overpayment was made.

(b) No credit may be allowed after the expiration of the period specified for filing claims for refund unless a claim for a credit is filed with the Department within that period.
2. Each claim must be in writing and must state the specific grounds upon which the claim is founded.

3. The failure to file a claim within the time prescribed in subsection 1 constitutes a waiver of any demand against the State on account of any overpayment. (Deleted by amendment.)

Sec. 132. 1. Except as otherwise provided in subsection 2, NRS 360.320 or any other specific statute, interest must be paid upon any overpayment of the excise tax imposed by section 127 of this act at the rate set forth in and in accordance with the provisions of, NRS 360.2937.

2. If the Department determines that any overpayment has been made intentionally or by reason of carelessness, the Department shall not allow any interest on the overpayment. (Deleted by amendment.)

Sec. 133. 1. Within 30 days after rejecting a claim for a refund or credit, in whole or in part, the Department shall serve written notice of its action on the claimant in the manner prescribed for service of a notice of deficiency determination. Within 30 days after the date of service of the notice, a claimant who is aggrieved by the action of the Department may file an appeal with the Nevada Tax Commission.

2. If the Department fails to serve notice of its action on a claim for a refund or credit within 6 months after the claim is filed, the claimant may consider the claim to be disallowed and file an appeal with the Nevada Tax Commission within 30 days after the last day of the 6-month period.

3. The final decision of the Nevada Tax Commission on an appeal is a final decision for the purposes of judicial review pursuant to chapter 233B of NRS. (Deleted by amendment.)

Sec. 134. 1. A proceeding for judicial review of a decision of the Nevada Tax Commission may not be commenced or maintained by an assignee of the claimant or by any other person other than the person who paid the amount at issue in the claim.

2. The failure of a claimant to file a timely petition for judicial review constitutes a waiver of any demand against the State on account of any overpayment. (Deleted by amendment.)

Sec. 135. 1. If judgment is rendered for the claimant in a proceeding for judicial review, any amount found by the court to have been erroneously or illegally collected must first be credited to any tax due from the claimant. The balance of the amount must be refunded to the claimant.

2. In any such judgment, interest must be allowed at the rate of 3 percent per annum upon any amount found to have been erroneously or illegally collected from the date of payment of the amount to the date of allowance of credit or account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days. The date must be determined by the Department. (Deleted by amendment.)

Sec. 136. No injunction, writ of mandate or other legal or equitable process may issue in any suit, action or proceeding in any court against this
State or against any officer of the State to prevent or enjoin the collection of
the excise tax imposed by section 127 of this act or any amount of tax, penalty
or interest required to be collected.

2. No suit or proceeding, including, without limitation, a proceeding for
judicial review, may be maintained in any court for the recovery of any amount
alleged to have been erroneously or illegally determined or collected unless a
claim for a refund or credit has been filed within the time prescribed in
section 131 of this act. (Deleted by amendment.)

Sec. 137. 1. A person shall not, with intent to defraud the State or
evade payment of the excise tax imposed by section 127 of this act or any part
of the tax:

(a) Make, cause to be made or permit to be made any false or fraudulent
return or declaration or false statement in any return or declaration.

(b) Make, cause to be made or permit to be made any false entry in books,
records or accounts.

(c) Keep, cause to be kept or permit to be kept more than one set of books,
records or accounts.

2. Any person who violates the provisions of subsection 1 is guilty of a
gross misdemeanor. (Deleted by amendment.)

Sec. 138. The remedies of the State provided for in this chapter are
cumulative, and no action taken by the Department or the Attorney General
constitutes an election by the State to pursue any remedy to the exclusion of
any other remedy for which provision is made in those sections. (Deleted by
amendment.)

Sec. 139. NRS 360.261 is hereby amended to read as follows:

360.261 Not later than 30 days after the Department or the Nevada Tax
Commission makes a finding or ruling, or enters into an agreement with a
retailer providing, that the provisions of chapters 372 and 374 of NRS and
sections 2 to 117, inclusive, of this act relating to the imposition, collection
and remittance of the sales tax and the collection and remittance of the
use tax do not apply to the retailer, despite the presence in this State of an
office, distribution facility, warehouse or storage place or similar place of
business which is owned or operated by the retailer or an affiliate of the
retailer, whether the finding, ruling or agreement is written or oral and whether
the finding, ruling or agreement is express or implied, the Department shall
submit a report of the finding, ruling or agreement to the Director of the
Legislative Counsel Bureau for transmittal to:

1. If the Legislature is in session, the Legislature; or
2. If the Legislature is not in session, the Legislative Commission.

Sec. 140. NRS 360.2937 is hereby amended to read as follows:

360.2937 1. Except as otherwise provided in this section, NRS 360.320
or any other specific statute, and notwithstanding the provisions of
NRS 360.2935, interest must be paid upon an overpayment of any tax provided
377C or 377D of NRS, for sections 2 to 117, inclusive, for 119 to 138, inclusive, of this act, any of the taxes provided for in NRS 372A.290, any fee provided for in NRS 444A.090 or 482.313, or any assessment provided for in NRS 585.497, at the rate of 0.25 percent per month from the last day of the calendar month following the period for which the overpayment was made.

2. No refund or credit may be made of any interest imposed on the person making the overpayment with respect to the amount being refunded or credited.

3. The interest must be paid:
   (a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if the person has not already filed a claim, is notified by the Department that a claim may be filed or the date upon which the claim is certified to the State Board of Examiners, whichever is earlier.
   (b) In the case of a credit, to the same date as that to which interest is computed on the tax or the amount against which the credit is applied.

Sec. 141. NRS 360.300 is hereby amended to read as follows:

360.300 1. If a person fails to file a return or the Department is not satisfied with the return or returns of any tax, contribution or premium or amount of tax, contribution or premium required to be paid to the State by any person, in accordance with the applicable provisions of this chapter, chapter 360B, 362, 363A, 363B, 363C, 369, 370, 372, 372A, 372B, 374, 377, 377A, 377C, 377D or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS, for sections 2 to 117, inclusive, for 119 to 138, inclusive, of this act, as administered or audited by the Department, it may compute and determine the amount required to be paid upon the basis of:
   (a) The facts contained in the return;
   (b) Any information within its possession or that may come into its possession; or
   (c) Reasonable estimates of the amount.
   2. One or more deficiency determinations may be made with respect to the amount due for one or for more than one period.
   3. In making its determination of the amount required to be paid, the Department shall impose interest on the amount of tax determined to be due, calculated at the rate and in the manner set forth in NRS 360.417, unless a different rate of interest is specifically provided by statute.
   4. The Department shall impose a penalty of 10 percent in addition to the amount of a determination that is made in the case of the failure of a person to file a return with the Department.
   5. When a business is discontinued, a determination may be made at any time thereafter within the time prescribed in NRS 360.355 as to liability arising out of that business, irrespective of whether the determination is issued before the due date of the liability.
Sec. 142. NRS 360.417 is hereby amended to read as follows:

360.417 Except as otherwise provided in NRS 360.232 and 360.320, and unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax provided for in chapter 362, 363A, 363B, 363C, 369, 370, 372, 372B, 374, 377, 377A, 377C, 377D, 444A or 585 of NRS, or sections 2 to 117, inclusive, or 119 to 138, inclusive, of this act, any of the taxes provided for in NRS 372A.290, or any fee provided for in NRS 482.313, and any person or governmental entity that fails to pay any fee provided for in NRS 360.787, to the State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee which is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of 0.75 percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date of payment. The amount of any penalty imposed must be based on a graduated schedule adopted by the Nevada Tax Commission which takes into consideration the length of time the tax or fee remained unpaid.

Sec. 143. NRS 360.510 is hereby amended to read as follows:

360.510 1. If any person is delinquent in the payment of any tax or fee administered by the Department or if a determination has been made against the person which remains unpaid, the Department may:
(a) Not later than 3 years after the payment became delinquent or the determination became final; or
(b) Not later than 6 years after the last recording of an abstract of judgment or of a certificate constituting a lien for tax owed,

- give a notice of the delinquency and a demand to transmit personally or by registered or certified mail to any person, including, without limitation, any officer or department of this State or any political subdivision or agency of this State, who has in his or her possession or under his or her control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person. In the case of any state officer, department or agency, the notice must be given to the officer, department or agency before the Department presents the claim of the delinquent taxpayer to the State Controller.

2. A state officer, department or agency which receives such a notice may satisfy any debt owed to it by that person before it honors the notice of the Department.

3. After receiving the demand to transmit, the person notified by the demand may not transfer or otherwise dispose of the credits, other personal property, or debts in his or her possession or under his or her control at the time the person received the notice until the Department consents to a transfer or other disposition.
4. Every person notified by a demand to transmit shall, within 10 days after receipt of the demand to transmit, inform the Department of and transmit to the Department all such credits, other personal property or debts in his or her possession, under his or her control or owing by that person within the time and in the manner requested by the Department. Except as otherwise provided in subsection 5, no further notice is required to be served to that person.

5. If the property of the delinquent taxpayer consists of a series of payments owed to him or her, the person who owes or controls the payments shall transmit the payments to the Department until otherwise notified by the Department. If the debt of the delinquent taxpayer is not paid within 1 year after the Department issued the original demand to transmit, the Department shall issue another demand to transmit to the person responsible for making the payments informing him or her to continue to transmit payments to the Department or that his or her duty to transmit the payments to the Department has ceased.

6. If the notice of the delinquency seeks to prevent the transfer or other disposition of a deposit in a bank or credit union or other credits or personal property in the possession or under the control of a bank, credit union or other depository institution, the notice must be delivered or mailed to any branch or office of the bank, credit union or other depository institution at which the deposit is carried or at which the credits or personal property is held.

7. If any person notified by the notice of the delinquency makes any transfer or other disposition of the property or debts required to be withheld or transmitted, to the extent of the value of the property or the amount of the debts thus transferred or paid, that person is liable to the State for any indebtedness due pursuant to this chapter, chapter 360B, 362, 363A, 363B, 363C, 369, 370, 372, 372A, 372B, 374, 377, 377A, 377C, 377D or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS or sections 2 to 117, inclusive, from the person with respect to whose obligation the notice was given if solely by reason of the transfer or other disposition the State is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

Sec. 144. Chapter 360B of NRS is hereby amended by adding thereto a new section to read as follows:

“Specified digital products” has the meaning ascribed to it in section 21 of this act.

Sec. 145. NRS 360B.030 is hereby amended to read as follows:

As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 360B.040 to 360B.100, inclusive, and section 144 of this act have the meanings ascribed to them in those sections.

Sec. 146. NRS 360B.063 is hereby amended to read as follows:

“Purchaser” means a person to whom a sale of tangible personal property or specified digital products is made.
Sec. 147. NRS 360B.080 is hereby amended to read as follows:
360B.080 “Seller” means any person making sales, leases or rentals of tangible personal property or specified digital products.

Sec. 148. NRS 360B.290 is hereby amended to read as follows:
360B.290 Any invoice, billing or other document given to a purchaser that indicates the sales price for which tangible personal property or specified digital products is sold:
1. May state separately any amount received by the seller for any transportation, shipping or postage charges for the delivery of the property to a location designated by the purchaser; and
2. Must state separately any amount received by the seller for:
   (a) Any installation charges for the property;
   (b) Any credit for any trade-in which is specifically exempted from the sales price of the property pursuant to chapter 372 or 374 of NRS;
   (c) Any interest, financing and carrying charges from credit extended on the sale; and
   (d) Any taxes legally imposed directly on the consumer.

Sec. 149. NRS 360B.320 is hereby amended to read as follows:
360B.320 1. The Department shall provide public notification to consumers of tangible personal property or specified digital products, including purchasers who are exempt from any sales and use taxes, of the practices of this State relating to the collection, use and retention of any personally identifiable information.
2. The Department shall not retain any personally identifiable information if the information is no longer required to ensure the validity of exemptions from sales and use taxes.
3. When any personally identifiable information that identifies a natural person is retained by or on behalf of the State, that person is entitled to reasonable access to that information to correct any portion thereof which has been inaccurately recorded.
4. If any person or other entity, except a state which is a member of the Agreement or any person or other entity who is entitled to such information pursuant to any state law or the Agreement, requests any personally identifiable information maintained by the Department, the Department shall make a reasonable and timely effort to notify any person who is identified by the requested information.
5. The Attorney General shall enforce the provisions of this section.
6. As used in this section, “personally identifiable information” means information that identifies:
   (a) A participant in the system created pursuant to the Agreement; or
   (b) A consumer of tangible personal property or specified digital products who deals with a registered seller that elects to use a certified service provider as its agent to perform all the functions of the seller relating to sales and use
taxes, other than the obligation of the seller to remit the taxes on its own purchases.

Sec. 150. 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. 151. NRS 360B.483 is hereby repealed.

Sec. 152. 1. This section becomes effective upon passage and approval.
2. Sections 1 to 151, inclusive of this act become effective:
(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and
(b) On January 1, 2022, for all other purposes.

TEXT OF REPEALED SECTION

360B.483 “Specified digital products” construed.

2. As used in this section:
(a) “Digital audio works” means works that result from the fixation of a series of musical, spoken or other sounds, including ringtones.
(b) “Digital audiovisual works” means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.
(c) “Digital books” means works that are generally recognized in the ordinary and usual sense as books.
(d) “Electronically transferred” means obtained by a purchaser by means other than tangible storage media.
(e) “Ringtones” means digitized sound files that are downloaded onto a device and may be used to alert the customer with respect to a communication.

Senator Neal moved the adoption of the amendment.
Remarks by Senator Neal.
(To be entered at a later date.)

Amendment adopted.

Senator Brooks moved that the bill be re-referred to the Committee on Finance, upon return from reprint.
Motion carried.
Bill ordered reprinted, engrossed and to the Committee on Finance.

Senate Bill No. 347.
Bill read third time.
The following amendment was proposed by the Committee on Education:
Amendment No. 436.
SUMMARY—Revises provisions governing sexual misconduct in institutions of the Nevada System of Higher Education. (BDR 34-237)
AN ACT relating to higher education; creating the Task Force on Sexual Misconduct at Institutions of Higher Education; prescribing the membership, duties and compensation of the Task Force; authorizing the Board of Regents of the University of Nevada to appoint researchers to develop a climate survey on sexual misconduct; authorizing the Board of Regents of the University of Nevada to require the institutions within the Nevada System of Higher Education to administer the climate survey to students; authorizing the imposition of additional requirements for the grievance process at an institution within the System; authorizing the Board of Regents to require each institution within the System to adopt a policy on sexual misconduct, enter into a memorandum of understanding with certain organizations and local law enforcement agencies and designate a confidential resource advisor; prohibiting an institution within the System from imposing certain sanctions on certain students; authorizing the Board of Regents to require an institution within the System to take certain actions regarding a report of an alleged incident of sexual misconduct; providing for certain training and programming related to sexual misconduct; authorizing a student who has experienced sexual misconduct to request a waiver from certain requirements of scholarships or academic activities; authorizing the Board of Regents to require an annual report from institutions within the System on certain information relating to sexual misconduct; authorizing the Board of Regents to impose a fine in certain circumstances; authorizing the Board of Regents to adopt regulations; making certain information relating to incidents of sexual misconduct confidential; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:
Existing federal law prohibits discrimination based on sex in programs or activities of education that receive federal funding. (Title IX of the Education Amendments Act of 1972, 20 U.S.C. §§ 1681 et seq.; 34 C.F.R. Part 106) Under existing federal regulations, an institution of higher education that receives federal funding must follow a grievance process that complies with Title IX to address formal complaints that allege an incident of sexual harassment that occurs in relation to an education program or activity of the institution, including, without limitation, incidents that occur on or off a campus of the institution. (34 C.F.R. §§ 106.44, 106.45) This bill generally expands the protections provided by Title IX.

Sections 2.3-11 of this bill define relevant terms. Section 12 of this bill creates the Task Force on Sexual Misconduct at Institutions of Higher Education and prescribes the membership of the Task Force. Section 13 of this bill authorizes the Board of Regents of the University of Nevada, to the extent money is available, to appoint researchers to develop a climate survey on sexual misconduct and prescribes the requirements of the climate survey. Section 14 of this bill
authorizes the Board of Regents of the University of Nevada, to the extent money is available, to require an institution within the Nevada System of Higher Education to conduct a climate survey on sexual misconduct, and section 15 of this bill sets forth the duties of the Board of Regents regarding the climate survey.

Section 16 of this bill authorizes the Board of Regents to require an institution within the System to adopt a policy on sexual misconduct and sets forth certain requirements related to the adoption of the policy. Section 18 of this bill prescribes the information that must be included in a policy on sexual misconduct, if such a policy is required to be adopted by an institution.

Section 17 of this bill authorizes the Board of Regents to require an institution within the System to adopt a policy on sexual misconduct and sets forth certain requirements related to the adoption of the policy. Section 18 of this bill prescribes the information that must be included in a policy on sexual misconduct, if such a policy is required to be adopted by an institution.

Section 18.3 of this bill prescribes the requirements of the grievance process of an institution within the System, which must be included with the policy on sexual misconduct, if such a policy is required to be adopted.

Section 18.5 of this bill authorizes the Board of Regents to require an institution to enter into a memorandum of understanding with a local law enforcement agency relating to the prevention of and response to alleged incidents of sexual misconduct and sets forth the provisions that must be included in the memorandum of understanding.

Section 19 of this bill authorizes the Board of Regents to require an institution to enter into a memorandum of understanding with an organization that assists victims of sexual misconduct, and sets forth the provisions that may be included in such a memorandum of understanding.

Section 20 of this bill authorizes the Board of Regents to require an institution within the System to designate a confidential resource advisor and provide training to the advisor. Section 21 of this bill sets forth the duties of the confidential resource advisor if an advisor is designated by an institution. Under existing law, certain communications between a victim and a victim’s advocate are deemed to be confidential. (NRS 49.2546) Existing law defines a victim’s advocate as a person who works for certain programs within the System that provide assistance to victims of certain acts. (NRS 49.2545) Section 28 of this bill includes the provision of services pursuant to sections 2-27 of this bill to victims of sexual misconduct in the definition of a victim’s advocate.

Section 22 of this bill authorizes the Board of Regents to require an institution within the System to prohibit sanctioning a reporting party or witness who reports an incident of sexual misconduct for violating a policy of student conduct that occurred during or related to the alleged incident of sexual misconduct.

Section 23 of this bill authorizes the Board of Regents to require an institution within the System to provide training on the grievance process of
the institution to certain employees. Section 24 of this bill authorizes the Board of Regents to require an institution within the System to provide programming on the awareness and prevention of sexual misconduct to students and employees of the institution.

Section 24.3 of this bill authorizes the Board of Regents to require an institution within the System to conduct an investigation or hold a hearing regarding an alleged incident of sexual misconduct. Sections 24.7 and 24.8 of this bill set forth the requirements for conducting an investigation and holding a hearing, respectively. Section 24.5 of this bill authorizes the Board of Regents to require an institution within the System to consider a request from a reporting party who is at least 18 years of age to keep the identity of the reporting party confidential unless state or federal law requires disclosure or further action. Section 24.9 of this bill authorizes an institution to issue a no contact directive in certain circumstances.

Section 24.95 of this bill authorizes a student who has experienced sexual misconduct to request a waiver from certain requirements of various scholarships or academic activities. Sections 27.1-27.9 of this bill make conforming changes relating to such a waiver.

Section 25 of this bill authorizes the Board of Regents to require an institution within the System to submit an annual report to the Board of Regents on certain information relating to sexual misconduct. Section 25 also requires the Board of Regents to compile the reports and submit the compilation to the Director of the Department of Health and Human Services and to the Legislature or Legislative Committee on Education.

Section 26 of this bill authorizes the Board of Regents to impose a fine against an institution that does not comply with the requirements imposed by the Board of Regents pursuant to sections 2-27. Section 27 of this bill authorizes the Board of Regents to adopt regulations. Section 28.5 of this bill makes certain information generated pursuant to a climate survey on sexual misconduct and the annual report on sexual misconduct prepared by an institution within the System confidential. (NRS 293.010)

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

Section 1. Chapter 396 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 27, inclusive, of this act.

Sec. 2. As used in sections 2 to 27, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 2.3 to 11, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 2.3. “Course of conduct” means a pattern of two or more acts that may include, without limitation, following, monitoring, observing, surveilling, threatening or communicating to or about a person or interfering with a person’s property, whether through direct or indirect, implicit or explicit, verbal or nonverbal or in-person or via virtual or electronic means.
Sec. 2.5. “Dating violence” has the meaning ascribed to it in 34 U.S.C. § 12291(a). The term includes, without limitation, physical or sexual violence, emotional abuse, interfering with the victim’s ability to secure a job or save money, violence or a threat of violence toward the victim’s child, family, friends, pets or property, threat of suicide by the perpetrator or a threat by the perpetrator to report the victim to police, immigration officials, child protective services or a mental health facility.

Sec. 3. “Domestic violence” means the commission of any act described in NRS 33.018.1 has the meaning ascribed to it in 34 U.S.C. § 12291(a).

Sec. 4. “Reporting party” means a student or employee of an institution within the System who reports being a victim of an alleged incident of sexual misconduct to the institution.

Sec. 5. “Responding party” means a student or employee of an institution within the System who has been accused of committing an alleged incident of sexual misconduct by a reporting party.


Sec. 7. “Sexual harassment” has the meaning ascribed to it in NRS 176.4280. It means conduct on the basis of sex, whether direct or indirect, implicit or explicit, verbal or nonverbal or in person or via virtual or electronic means, that satisfies one or more of the following:

1. An employee of an institution within the System conditioning the provision of an aid, benefit or service of the institution or the terms, conditions or privileges of the participation of a person in the education programs or activities of the institution on the person’s participation in unwelcome sexual conduct, including, without limitation:
   (a) A sexual advance;
   (b) A request for sexual favors; or
   (c) Other conduct of a sexual nature.

2. Unwelcome conduct determined by a reasonable person to be sufficiently severe, pervasive and objectively offensive that it effectively denies a person equal access to the education programs or activities of an institution within the System.

3. Sexual assault, dating violence, domestic violence or stalking.

Sec. 8. “Sexual misconduct” means sexual violence, dating violence, domestic violence, gender-based violence, stalking, harassment or violence based on sexual orientation, gender identity or expression, sexual assault, sexual harassment, sexual exploitation, stalking or other gender-based harassment or violence.

Sec. 9. “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

1. Fear for his or her safety or the safety of others; or

2. Suffer substantial emotional distress.
Sec. 10. “Supportive measures” has the meaning ascribed to it in 34 C.F.R. § 106.30.

Sec. 11. “Trauma-informed response” means a response involving an understanding of the complexities of sexual misconduct, including, without limitation:

1. The neurobiological causes and impacts of trauma; and
2. The influence of social myths and stereotypes surrounding the causes and impacts of trauma.

Sec. 12. 1. There is hereby created the Task Force on Sexual Misconduct at Institutions of Higher Education consisting of 19 members as follows:

(a) The Chair of the Board of Regents, or his or her designee;
(b) The Chancellor of the System, or his or her designee;
(c) The Attorney General, or his or her designee;
(d) Twelve members appointed by the Board of Regents as follows:
   (1) One representative of a state college;
   (2) One representative of a community college;
   (3) One representative of a university;
   (4) One Title IX coordinator from an institution within the System;
   (5) Two students who represent a group or organization that focuses on multiculturalism, diversity or advocacy at a state college or community college;
   (6) Two students who represent a group or organization that focuses on multiculturalism, diversity or advocacy at a university;
   (7) One researcher with experience in the development of climate surveys on sexual misconduct;
   (8) One researcher of statistics, data analytics or econometrics with experience in survey analysis in higher education;
   (9) One medical professional from the University of Nevada, Las Vegas, School of Medicine or the University of Nevada, Reno, School of Medicine; and
   (10) One mental health professional from the University of Nevada, Las Vegas, School of Medicine or the University of Nevada, Reno, School of Medicine;
(e) One representative of the Nevada Coalition to End Domestic and Sexual Violence, or its successor organization, appointed by the Attorney General;
(f) One representative of an organization supporting the rights of victims of crime, appointed by the Attorney General;
(g) One representative of a nonprofit organization or agency dedicated to addressing domestic violence or sexual assault, appointed by the Attorney General; and
One representative of the Every Voice Coalition, or a successor organization dedicated to student and survivor advocacy appointed by the Attorney General.

2. After the initial terms, each appointed member of the Task Force serves a term of 2 years and may be reappointed to one additional 2-year term following his or her initial term. A vacancy must be filled in the same manner as the original appointment.

3. The Task Force shall, at its first meeting and each odd-numbered year thereafter, elect a Chair from among its members.

4. The Task Force shall meet at least once annually and may meet at other times upon the call of the Chair or a majority of the members of the Task Force.

5. A majority of the members of the Task Force constitutes a quorum, and a quorum may exercise all the power and authority conferred on the Task Force.

6. Members of the Task Force serve without compensation, except that for each day or portion of a day during which a member of the Task Force attends a meeting of the Task Force or is otherwise engaged in the business of the Task Force, and within the limits of available money, the member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

7. Each member of the Task Force who is an officer or employee of the State or a local government must be relieved from his or her duties without loss of his or her regular compensation so that the member may prepare for and attend meetings of the Task Force and perform any work necessary to carry out the duties of the Task Force in the most timely manner practicable. A state agency or local government shall not require an officer or employee who is a member of the Task Force to make up the time the member is absent from work to carry out his or her duties as a member, and shall not require the member to take annual vacation or compensatory time for the absence.

8. The Office of the Attorney General shall provide administrative support to the Task Force.

Sec. 13. 1. The Task Force on Sexual Misconduct at Institutions of Higher Education created pursuant to section 12 of this act shall: To the extent that money is available, the Board of Regents may appoint researchers employed at one or more institutions within the System to develop a climate survey on sexual misconduct designed to be administered at institutions within the System. The climate survey on sexual misconduct must:

(a) Provide institution-specific data regarding the prevalence of gender-based harassment and discrimination;

(b) Be fair and unbiased;

(c) Be scientifically valid and reliable; and

(d) Meet the highest standards of survey research.

2. If appointed to develop a climate survey on sexual misconduct, the researchers shall:
(a) Use best practices from peer-reviewed research;
(b) Consult with persons with expertise in the development and use of climate surveys on sexual misconduct at institutions of higher education;
(c) Review climate surveys on sexual misconduct which have been developed and implemented by institutions of higher education, including, without limitation, institutions in other states;
(d) Provide opportunity for written comment from organizations that assist victims of sexual misconduct to ensure the adequacy and appropriateness of any proposed content of the climate survey on sexual misconduct;
(e) Consult with institutions within the System on strategies for optimizing the effectiveness of the climate survey on sexual misconduct; and
(f) Account for the diverse needs and differences of the institutions within the System.

3. If a climate survey on sexual misconduct is developed, the climate survey must request information on topics related to sexual misconduct. The topics may include, without limitation:
   (a) The estimated number of alleged incidents of sexual misconduct, both reported and not reported, at an institution within the System, if a student taking the survey has knowledge of such information;
   (b) When and where an alleged incident of sexual misconduct occurred;
   (c) Whether an alleged incident of sexual misconduct was perpetrated by a student, faculty member, staff member of an institution within the System, third party vendor or another person;
   (d) Awareness of a student of the policies and procedures related to sexual misconduct at an institution;
   (e) Whether a student reported an alleged incident of sexual misconduct and:
      (1) If the incident was reported, to which campus resource or law enforcement agency a report was made; and
      (2) If the incident was not reported, the reason the student chose not to report the incident;
   (f) Whether a student who reported an alleged incident of sexual misconduct was:
      (1) Offered supportive measures by an institution;
      (2) Informed of, aware of or referred to campus, local or state resources for support for victims, including, without limitation, appropriate medical care and legal services; and
      (3) Informed of the prohibition against retaliation for reporting an alleged incident of sexual misconduct;
   (g) Contextual factors in an alleged incident of sexual misconduct, such as the involvement of force, incapacitation or coercion;
(h) Demographic information that could be used to identify at-risk groups, including, without limitation, the gender, race and sexual orientation of the student taking the climate survey on sexual misconduct;

(i) Perceptions a student has of campus safety;

(i) Whether a student has confidence in the ability of the institution to protect against and respond to alleged incidents of sexual misconduct;

(k) Whether a student chose to withdraw or take a leave of absence from the institution or transfer to another institution because the student is the reporting party or responding party in an alleged incident of sexual misconduct;

(l) Whether a student withdrew from any classes or was placed on academic probation, disciplinary probation or otherwise disciplined as a result of an alleged incident of sexual misconduct;

(m) Whether a student experienced any financial impact as a result of an alleged incident of sexual misconduct or the response of an institution within the System to the alleged incident of sexual misconduct;

(n) Whether a student experienced any negative health impacts as a result of an alleged incident of sexual misconduct or the response of an institution within the System to the alleged incident of sexual misconduct, including, without limitation, post-traumatic stress disorder, anxiety, depression, chronic pain or an eating disorder;

(o) The perception of the participants in the survey of the attitudes of the community toward sexual misconduct, including, without limitation, the willingness of a person to intervene in an ongoing incident of sexual misconduct as a bystander; and

(p) Any other questions as determined necessary by the Task Force.

3. The Task Force shall provide the Board of Regents with any recommendations respecting the content, timing and administration of the climate survey on sexual misconduct, including, without limitation, recommendations on achieving a response rate that is statistically valid, researchers.

4. The Task Force shall deliver the climate survey on sexual misconduct and any recommendations to the Board of Regents at least biennially, with the first survey delivered not later than March 31, 2022. must provide an option for students to decline to answer a question.

5. The climate survey on sexual misconduct must be provided to the Task Force on Sexual Misconduct at Institutions of Higher Education created pursuant to section 12 of this act for comment.

Sec. 14. 1. To the extent that money is available, the Board of Regents may require each institution within the System to conduct a climate survey on sexual misconduct at the institution biennially.

2. A climate survey on sexual misconduct conducted pursuant to subsection 1 must include the questions developed by the Task Force on Sexual Misconduct at Institutions of Higher Education pursuant to section 13 of this...
act. If an institution within the System includes additional questions on a climate survey on sexual misconduct conducted pursuant to subsection 1, the questions must not be unnecessarily traumatizing for a victim of an alleged incident of sexual misconduct.

If an institution within the System conducts a climate survey on sexual misconduct pursuant to subsection 1, the institution shall:

(a) Provide the survey to each student at the institution, including, without limitation, students studying abroad; or on a leave of absence from the institution;

(b) Not require the disclosure of personally identifying information by a respondent to participant in the climate survey on sexual misconduct;

(c) Work to ensure an adequate number of students complete the survey to achieve a random and representative sample size of students;

(d) Within 120 days after completion of the climate survey on sexual misconduct:
   (1) Compile a summary of the responses to the survey; and
   (2) Submit the summary of responses to the Board of Regents; and

(e) Post on the Internet website maintained by the institution in a manner that does not disclose the identity of a student:
   (1) The responses to the climate survey on sexual misconduct;
   (2) The summary of the responses to the climate survey on sexual misconduct; and
   (3) A link to the summary of the responses to the climate survey on sexual misconduct on the Internet website maintained by the Board of Regents.

3. A climate survey on sexual misconduct must be administered electronically by an institution within the System or conducts a climate survey on sexual misconduct pursuant to subsection 1, the institution may provide the survey to a former student of the institution who took a leave of absence or withdrew from the institution because the student was a reporting party of an alleged incident of sexual misconduct and provide reasonable accommodations for students with a disability.

4. An institution within the System may obtain a waiver from the Board of Regents to not administer a climate survey on sexual misconduct pursuant to this section due to the financial circumstances of the institution.

5. An institution within the System may apply for and accept any gifts, grants, donations, bequests or other money from any source to carry out the provisions of this section.

6. Any data or reports that underlie the summaries generated pursuant to subsection 2 are confidential and are not a public record for the purposes of chapter 239 of NRS.

Sec. 15. If the Board of Regents requires an institution within the System to conduct a climate survey on sexual misconduct pursuant to section 14 of this act, the Board of Regents shall
to the extent that money is available:

(a) Provide a copy of the questions developed by the Task Force on Sexual Misconduct at Institutions of Higher Education researchers employed at an institution within the System pursuant to section 13 of this act to each institution within a reasonable time after the Board of Regents receives the questions from the Task Force researchers;

(b) Establish a repository for the summaries of the climate survey on sexual misconduct submitted by each institution pursuant to section 14 of this act;

c) Post each summary of the responses to a climate survey on sexual misconduct submitted by an institution pursuant to section 14 of this act on the Internet website maintained by the Board of Regents in a manner that does not disclose the identity of a student;

d) Adopt a policy on the dissemination, collection and summation of the responses to the climate survey on sexual misconduct; and

e) On or before February 1 of each odd-numbered year, report the summaries of the climate survey on sexual misconduct submitted by an institution pursuant to section 14 of this act to the Director of the Legislative Counsel Bureau for transmittal to the Senate and Assembly Standing Committees on Education.

2. Any data or reports that underlie the summaries generated pursuant to subsection 1 are confidential and are not a public record for the purposes of chapter 239 of NRS.

Sec. 16. The Board of Regents may require an institution within the System to:

1. Require employees who participate in the grievance process of the institution pursuant to Title IX of the Education Amendments Act of 1972, 20 U.S.C. §§ 1681 et seq., or a policy on sexual misconduct adopted pursuant to section 17 of this act to receive annual training on topics related to sexual misconduct which may include, without limitation, any training required pursuant to section 23 of this act;

2. Provide a reporting party and responding party with a copy of the policies of the institution regarding the submission and consideration of evidence that may be considered during the grievance process;

3. Within 7 business days after a final determination of a report of an alleged incident of sexual misconduct, inform the reporting party and the responding party of the result of the final determination; and

4. Unless otherwise required by state or federal law, not disclose the identity of a reporting party or responding party.

Sec. 17. The Board of Regents may require an institution within the System to adopt a policy on sexual misconduct consistent with applicable state and federal law.
2. If the Board of Regents requires the adoption of a policy on sexual misconduct pursuant to subsection 1, in developing the policy on sexual misconduct, an institution within the System:
   (a) Shall:
      (1) Incorporate a trauma-informed response;
      (2) Coordinate with:
         (I) The Title IX coordinator of the institution; and
         (II) If an institution has entered into a memorandum of understanding pursuant to section 19 of this act, the organization that assists victims of sexual misconduct; and
      (3) Engage in a culturally competent manner to reflect the diverse needs of all students; and
   (b) May consider input from internal and external entities, including, without limitation:
      (1) Administrators at the institution;
      (2) Personnel affiliated with health care centers located on or off a campus of the institution that provide services to the institution;
      (3) A [victim’s advocate] confidential resource advisor designated pursuant to section 20 of this act;
      (4) Staff affiliated with campus housing services;
      (5) Students enrolled in an institution within the System;
      (6) Law enforcement agencies, including, without limitation, campus police or security; and
      (7) The district attorney of the county where the main campus of the institution is located.

3. If the Board of Regents requires the adoption of a policy on sexual misconduct pursuant to subsection 1, an institution within the System shall provide:
   (a) Internal or external entities an opportunity to provide comment on the initial policy on sexual misconduct or any substantive change to the policy;
   (b) Instructions on how an internal or external entity may provide comment on the initial policy on sexual misconduct or a substantive change to the policy; and
   (c) A reasonable length of time during which the institution will accept comment.

4. After an initial policy on sexual misconduct is adopted by an institution within the System, the opportunity for comment by an internal or external entity pursuant to subsection 3 applies only to a substantive change to the policy, as determined by the institution.

5. If the Board of Regents requires the adoption of a policy on sexual misconduct pursuant to subsection 1, an institution within the System shall make the policy on sexual misconduct publicly available not later than the start of each academic year:
(a) On a campus of the institution in locations where students regularly congregate, including, without limitation, a dining facility, recreational facility, library, bookstore, student union, student center or common area of campus housing;

(b) Upon request, to a prospective student, current student or employee of the institution; and

(c) On the Internet website maintained by the institution.

6. As used in this section, “student” includes, without limitation, a former student of the institution who took a leave of absence or withdrew from the institution due to being a reporting party of an alleged incident of sexual misconduct.

Sec. 18. 1. If the Board of Regents requires the adoption of a policy on sexual misconduct pursuant to section 17 of this act, the policy must include, without limitation, information on:

(a) The procedures by which a student or employee at an institution within the System may report or disclose an alleged incident of sexual misconduct that occurred on or off a campus of the institution;

(b) Obtaining emergency medical assistance after an alleged incident of sexual misconduct, including, without limitation:

(1) The name and location of the nearest medical facility where a student or employee may receive a forensic medical examination;

(2) Options for transportation and reimbursement for travel costs associated with obtaining a forensic medical examination;

(3) The telephone number and Internet website for a national 24-hour hotline and any other state or local resources that provide information on sexual misconduct; and

(4) Any programs that may provide financial assistance to a student for the cost of obtaining emergency medical assistance;

(c) The types of counseling and health, safety, academic and other support services available within the local community or through an organization that assists victims of sexual misconduct, including, without limitation, the contact information for any relevant providers of support services;

(d) The name, contact information and a description of the role of and services provided by:

(1) [An advisor who may serve as a confidential resource to a responding party;

(2) A victim’s advocate] A confidential resource advisor designated by the institution pursuant to section 20 of this act;

(3) The Title IX coordinator of the institution;

(4) An organization that supports persons accused of sexual misconduct;

(e) The rights or obligations of a student or employee to:
(1) Notify or decline to notify a law enforcement agency of an alleged incident of sexual misconduct;

(2) Receive assistance from the appropriate personnel on a campus of the institution in notifying a law enforcement agency of an alleged incident of sexual misconduct;

(3) Obtain an order for protection, restraining order or injunction issued by a court; or

(4) Obtain an agreement between the reporting party and responding party to restrict contact;

(f) Procedures for a student or employee to notify an institution that an order for protection, restraining order or injunction has been issued under state or federal law;

(g) The responsibilities of the institution upon receipt of the notice of an order for protection, restraining order or injunction;

(h) Supportive measures, including, without limitation:

   (1) Changing academic, living, campus transportation or work arrangements;

   (2) Taking a leave of absence from the institution in response to an alleged incident of sexual misconduct;

   (3) How to request supportive measures; and

   (4) The process to have any supportive measures reviewed by the institution;

(i) Appropriate local, state and federal law enforcement agencies, including, without limitation, the contact information for a law enforcement agency; and

(j) The grievance process of the institution for investigating and resolving a report of an alleged incident of sexual misconduct pursuant to Title IX of the Education Amendments Act of 1972, 20 U.S.C. §§ 1681 et seq., the policy on sexual misconduct adopted pursuant to section 17 of this act and, if required by the Board of Regents, the requirements of section 16 of this act.

2. As used in this section:

   (a) “Forensic medical examination” has the meaning ascribed to it in NRS 217.300.

   (b) “Student” includes, without limitation, a former student of the institution who took a leave of absence or withdrew from the institution because the student was a reporting party of an alleged incident of sexual misconduct.

Sec. 18.3. 1. The grievance process of an institution within the System relating to reports of an alleged incident of sexual misconduct must require the institution to, without limitation:

   (a) Uniformly apply the grievance process to all proceedings relating to reports of an alleged incident of sexual misconduct.
(b) Provide timely and detailed notice to the reporting party and the responding party at the time the institution decides to proceed with any proceeding of the grievance process. The notice must describe:

1. The date, time and location of the proceeding of the grievance process, if known; and
2. A summary of the factual allegations concerning the alleged incident of sexual misconduct.

(c) Authorize the reporting party and the responding party to be accompanied by or consult with an advisor or a support person of their choice, including, without limitation, a confidential resource advisor designated pursuant to section 20 of this act or an attorney, during a meeting with an investigator or fact finder of the institution or any other proceeding of the grievance process. An institution may establish guidelines on the extent to which an advisor or support person may participate in a meeting or other proceeding of the grievance process, which must apply equally to both the reporting party and the responding party.

(d) Provide the reporting party and responding party with a copy of the policies of the institution regarding the submission and consideration of evidence that may be considered during the grievance process.

(e) Provide an equal opportunity to the reporting party and the responding party to present evidence and witnesses on their behalf during a proceeding of the grievance process. A reporting party and responding party must be provided with timely and equal access to all relevant evidence that will be used in a determination of the proceeding.

(f) Inform students on restrictions on evidence that can be considered by the fact finder of the institution, including, without limitation, restrictions on the use of evidence of previous sexual activity of either party or the use of character witnesses.

(g) Inform the reporting party and the responding party of:

1. The results of a proceeding of the grievance process not later than 7 business days after a determination has been made;
2. The right of both the reporting party and the responding party to appeal a determination where:
   (I) There are procedural errors;
   (II) Previously unavailable relevant evidence that could significantly impact the outcome of a case is discovered; or
   (III) The sanction is disproportionate to the findings;
3. The process for appealing a determination; and
4. That the reporting party and the responding party have an equal opportunity to appeal a determination regarding a finding of responsibility or the imposition of sanctions in accordance with the appeals process of the institution; and

(h) Unless otherwise required by state or federal law, not disclose the identity of a reporting party or responding party, including, without limitation,
an address, job location, telephone number, electronic mail address or other contact information or information that may disclose the location of a party to the other party.

2. If the Board of Regents requires the adoption of a policy on sexual misconduct pursuant to section 17 of this act, the policy must contain clear statements of the information described in subsection 1 and a statement that the grievance process of the institution is not a substitute for the system of criminal justice.

Sec. 18.5. 1. To the extent practicable, the Board of Regents may require an institution within the System to enter into a memorandum of understanding with a local law enforcement agency of the jurisdiction in which the main campus of the institution is located to establish the respective roles and responsibilities of the institution and the law enforcement agency relating to the prevention of and response to alleged incidents of sexual misconduct on-campus and off-campus. Such a memorandum of understanding must, without limitation:

(a) Establish the jurisdiction of the local law enforcement agency based on criteria, including, without limitation, the location and type of an alleged incident of sexual misconduct;

(b) Provide for a cross-jurisdictional or multi-jurisdictional response or investigation, as appropriate, including, without limitation:

(1) Developing standards for measures for notification and communication to promote the preservation of evidence;

(2) Coordinating training, programming and standards on issues relating to sexual misconduct; and

(3) Ensuring that reporting parties are able to move safely and comfortably between classes, extracurricular activities and campus jobs; and

(c) In accordance with state and federal law, establish protocols for the release of relevant documentation and information relating to an alleged incident of sexual misconduct to the law enforcement agency during an investigation conducted by the institution or the law enforcement agency in investigations where a student or employee of the institution consents to the release and is fully informed of the consequences of releasing such documentation or information;

(d) Establish methods for sharing information, as appropriate relating to the reporting requirements of the Clery Act, 20 U.S.C. § 1092, and facilitating the issuance of timely warnings and emergency notifications required by the Clery Act, 20 U.S.C. § 1092; and

(e) Include methods for notifying a district attorney of the county where the main campus of the institution is located of an alleged incident of sexual misconduct, as appropriate.

2. If an institution within the System enters into a memorandum of understanding pursuant to this section, the institution shall comply with applicable state and federal confidentiality and privacy laws.
3. If the Board of Regents requires an institution within the System to enter into a memorandum of understanding pursuant to subsection 1, the Board of Regents may waive the requirement if the institution demonstrates that it acted in good faith to enter into a memorandum of understanding but was unable to do so.

4. To the extent that money is available, an employee of a local law enforcement agency with which an institution within the System enters into a memorandum of understanding pursuant to subsection 1 who acts as a first responder on a consistent basis to a report of an alleged incident of sexual misconduct at the institution shall receive training in the awareness of sexual misconduct and a trauma-informed response.

5. If an institution is located in the jurisdiction of more than one local law enforcement agency, only one memorandum of understanding between the institution and a local law enforcement agency is necessary to comply with this section.

Sec. 19. 1. The Board of Regents may require an institution within the System to enter into a memorandum of understanding with an organization that assists victims of sexual misconduct. The memorandum of understanding may, without limitation:
   (a) Ensure cooperation and training between the institution and the organization that assists victims of sexual misconduct to ensure an understanding of the:
      (1) Responsibilities that the institution and organization that assists victims of sexual misconduct have in responding to a report or disclosure of an alleged incident of sexual misconduct; and
      (2) Procedures of the institution for providing support and services to students and employees;
   (b) Provide for office space on a campus of the institution for a confidential resource advisor from the organization that assists victims of sexual misconduct to confidentially meet with a student or employee;
   (c) Require an organization that assists victims of sexual misconduct to:
      (1) Assist with developing policies, programming or training at the institution regarding sexual misconduct;
      (2) Provide an alternative for a student or employee of the institution to receive free and confidential counseling, advocacy or crisis services related to an alleged incident of sexual misconduct that are located on or off a campus of the institution, including, without limitation:
         (I) Access to a health care provider who specializes in forensic medical examinations;
         (II) Confidential services to a victim of sexual misconduct; and
         (III) Consultation on a report of an alleged incident of sexual misconduct made by a victim or a case in which a victim is involved;
      (3) Training victim’s advocates;
(4) The development and implementation of education and prevention programs for students of the institution; and
(5) The development and implementation of training and prevention curriculum for employees of the institution; and
(d) Include a fee structure for any services provided by the organization that assists victims of sexual misconduct.

2. If the Board of Regents requires an institution within the System to enter into a memorandum of understanding pursuant to subsection 1, the Board of Regents may waive the requirement to enter into a memorandum of understanding if an institution demonstrates that it acted in good faith to enter into a memorandum of understanding but was unable to do so.

3. As used in this section:
(a) “Forensic medical examination” has the meaning ascribed to it in NRS 217.300.
(b) “Student” includes, without limitation, a former student of the institution who took a leave of absence or withdrew from the institution because the student was a reporting party of an alleged incident of sexual misconduct.

Sec. 20. 1. The Board of Regents may require an institution within the System to designate a confidential resource advisor. If the Board of Regents requires the designation of a confidential resource advisor, an institution may:
(a) Partner with an organization that assists victims of sexual misconduct to designate a confidential resource advisor;
(b) If the institution enrolls less than 1,000 students who reside in campus housing, partner with another institution within the System to designate a confidential resource advisor;
(c) Designate existing categories of employees who may serve as a confidential resource advisor.

2. A confidential resource advisor designated pursuant to subsection 1:
(a) May have another role at the institution;
(b) Must not be a student, a Title IX coordinator, a member of campus police or law enforcement, or any other official of the institution who is authorized to initiate a disciplinary proceeding on behalf of the institution; and their position at the institution may create a conflict of interest;
(c) Must be designated based on the experience and demonstrated ability of the person to effectively provide victim services related to sexual misconduct; and
(d) Must have completed at least 20 hours of relevant training.

3. If an institution within the System designates a confidential resource advisor pursuant to subsection 1, the institution shall provide training to the confidential resource advisor on:
(a) The awareness and prevention of sexual misconduct;
(b) Title IX of the Education Amendments Act of 1972, 20 U.S.C. §§ 1681 et seq.;
(c) Any policy on sexual misconduct adopted by the institution pursuant to section 17 of this act; and
(d) Trauma-informed responses to a report of an alleged incident of sexual misconduct.

4. An institution within the System that designates a confidential resource advisor pursuant to subsection 1 shall ensure the availability of a confidential resource advisor to students within a reasonable distance from the institution or by electronic means if it is not practicable to provide for the availability of a confidential resource advisor in person.

Sec. 21. 1. If a confidential resource advisor is designated pursuant to section 20 of this act, the confidential resource advisor shall:

(a) If an institution within the System has entered into a memorandum of understanding pursuant to section 19 of this act, coordinate with the organization that assists victims of sexual misconduct;
(b) Inform a student or employee of, or provide resources about how to obtain information on:
   (1) Options on how to report an alleged incident of sexual misconduct and the processes for and effects of each option;
   (2) Counseling services available on a campus of the institution and through a local organization that assists victims of sexual misconduct;
   (3) Medical and legal services available on or off a campus of the institution;
   (4) Available supportive measures;
   (5) Counseling related to student loans, including, without limitation, loan deferment, forbearance or other programs for students considering a leave of absence from, withdrawal from or part-time enrollment at the institution;
   (6) The grievance process of the institution and that the grievance process is not a substitute for the system of criminal justice;
   (7) The role of local, state and federal law enforcement agencies;
   (8) Any limits on the ability of the confidential resource advisor to provide privacy or confidentiality to the student or employee; and
   (9) A policy on sexual misconduct adopted by the institution pursuant to section 17 of this act;
(c) Notify the student or employee of his or her rights and the responsibilities of the institution regarding an order for protection, restraining order or injunction issued by a court;
(d) Unless otherwise required by state or federal law, not be required to report an alleged incident of sexual misconduct to the institution or a law enforcement agency;

(e) Provide confidential services to students and employees;

(f) Not provide confidential services to more than one party in a grievance process;

(g) Unless otherwise required by state or federal law, not disclose confidential information without the prior written consent of the student or employee who shared the information;

(h) Support a reporting party in obtaining supportive measures to ensure the reporting party has continued access to education;

(i) Notify all staff of the institution who are involved in providing or enforcing supportive measures of the duties of the staff and ensure staff are trained; and

(j) Inform a student or employee that supportive measures may be available through disability services or the Title IX coordinator.

2. If a confidential resource advisor is designated pursuant to section 20 of this act, the confidential resource advisor may:

(a) If appropriate and if directed by a student or employee, assist the student or employee in reporting an alleged incident of sexual misconduct to the institution or a law enforcement agency; and

(b) Attend a disciplinary proceeding of the institution as the advisor or support person of a reporting party.

3. Notice to a confidential resource advisor of an alleged incident of sexual misconduct or the performance of services by a confidential resource advisor pursuant to this section must not be considered actual or constructive notice of an alleged incident of sexual misconduct to the institution within the System which designated the confidential resource advisor pursuant to section 20 of this act.

4. If a conflict of interest arises between the institution within the System which designated a confidential resource advisor and the confidential resource advisor in advocating for the provision of supportive measures by the institution to a reporting party or a responding party, the institution shall not discipline, penalize or otherwise retaliate against the confidential resource advisor for advocating for the reporting party or the responding party.

Sec. 22. The Board of Regents may prohibit an institution within the System from subjecting a reporting party or a witness who reports an alleged incident of sexual misconduct to a disciplinary proceeding or sanction for a violation of a policy on student conduct related to drug or alcohol use, trespassing or unauthorized entry of school facilities or other violation of a policy of an institution that occurred during or related
to an alleged incident of sexual misconduct unless the institution determines that the:

(a) Report of an alleged incident of sexual misconduct was not made in good faith; or
(b) The violation of a policy on student conduct was egregious, including, without limitation, a violation that poses a risk to the health or safety of another person.

2. The Board of Regents may require an institution within the System to review any disciplinary action taken against a reporting party or witness to determine if there is any connection between the alleged incident of sexual misconduct that was reported and the misconduct that led to the reporting party or witness being disciplined.

Sec. 23. 1. The Board of Regents may require an institution within the System to provide training on the grievance process of the institution to an employee who is a participant in the grievance process. The training must include, without limitation:

(a) How to respond to and otherwise address a report of an alleged incident of sexual misconduct;
(b) Information on working with and interviewing victims of sexual misconduct;
(c) Information on particular types of sexual misconduct, including, without limitation, domestic violence and sexual assault;
(d) An explanation of consent as it applies to a sexual act or sexual conduct with another person;
(e) The manner in which drugs and alcohol may affect the ability of a person to consent to a sexual act or sexual conduct with another person;
(f) The effects of trauma, including, without limitation, any neurobiological impact on a person;
(g) Training in cultural competency regarding how sexual misconduct may impact students differently depending on, without limitation, the race, color, national origin, sex, ethnicity, religion, gender identity or expression, sexual orientation, economic status or pregnancy or parenting status of a student;
(h) Information regarding how sexual misconduct may impact students with disabilities;
(i) Ways to communicate appropriately with a reporting party;
(j) Ways to communicate appropriately with a responding party, including, without limitation, an awareness of the emotional impact of being wrongly accused; and
(k) Information regarding re-traumatization and blaming of a victim.

2. The Board of Regents may require an institution within the System to train the Title IX coordinator and members of the campus police or safety personnel of the institution in the awareness of sexual misconduct and in trauma-informed response to an alleged incident of sexual misconduct.
Sec. 24. 1. The Board of Regents may require an institution within the System to provide annual programming on awareness and prevention of sexual misconduct to all students and employees of the institution. If the Board of Regents requires an institution to provide programming on awareness and prevention of sexual misconduct, the programming must include, without limitation:

(a) An explanation of consent as it applies to a sexual act or sexual conduct with another person;
(b) The manner in which drugs and alcohol may affect the ability of a person to consent to a sexual act or sexual conduct with another person;
(c) Information on options for reporting an alleged incident of sexual misconduct, the effects of each option and the method to file a report under each option, including, without limitation, a description of the confidentiality and anonymity, as applicable, of a report;
(d) Information on the grievance process of the institution for addressing a report of an alleged incident of sexual misconduct, including, without limitation, a policy on sexual misconduct adopted pursuant to section 17 of this act;
(e) The range of sanctions or penalties the institution may impose on a student or employee found responsible for an incident of sexual misconduct;
(f) If a confidential resource advisor is designated pursuant to section 20 of this act, the name, contact information and role of the confidential resource advisor;
(g) Strategies for intervention by bystanders;
(h) Strategies for reduction of the risk of sexual misconduct; and
(i) Any other opportunities for additional programming on awareness and prevention of sexual misconduct.

2. If an institution provides programming on awareness and prevention of sexual misconduct pursuant to subsection 1, the institution:

(a) Shall coordinate with the Title IX coordinator of the institution;
(b) May coordinate with a law enforcement agency and, if the institution entered into a memorandum of understanding with an organization that assists victims of sexual misconduct pursuant to section 19 of this act, that organization; and
(c) Shall require students or employees to attend the programming on the awareness and prevention of sexual misconduct.

3. If an institution provides programming on awareness and prevention of sexual misconduct pursuant to subsection 1, the programming must be trauma-informed, inclusive of persons who are lesbian, gay, bisexual, transgender or questioning, culturally responsive and address the unique experiences and challenges faced by students based on the race, ethnicity,
national origin, economic status, disability, gender identity or expression, immigration status and sexual orientation of a student.

Sec. 24.3. 1. The Board of Regents may require an institution within the System that receives a report or has reason to know of an alleged incident of sexual misconduct that involves a student or employee of the institution to:
   (a) If necessary, conduct an investigation pursuant to section 24.7 of this act;
   (b) If necessary, hold a hearing pursuant to section 24.8 of this act;
   (c) Comply with subsection 2 of section 18 of this act; and
   (d) If the alleged incident of sexual misconduct is determined to have occurred based on a preponderance of the evidence, take reasonable steps in response to the incident of sexual misconduct, including, without limitation, addressing a hostile environment, if such an environment has been created, preventing the recurrence of the conduct and addressing the effects of the conduct.

2. If an institution within the System conducts an investigation pursuant to section 24.7 of this act or holds a hearing pursuant to section 24.8 of this act, the institution shall inform both the reporting party and the responding party of the investigation or hearing in a way that both the reporting party and responding party have the opportunity to meaningfully exercise their rights to a grievance process that is prompt, fair and impartial and include, without limitation, any information posted on the Internet website of the institution relating to the grievance process of the institution.

3. An institution shall be deemed to know, or reasonably should know, about a possible incident of sexual misconduct if an employee with a duty to report an incident of sexual misconduct knew of the possible incident of sexual misconduct or, in the exercise of reasonable care, should have known of the possible incident of sexual misconduct.

4. As used in this section, “hostile environment” means an environment where a student or employee experiences harassment that is sufficiently severe, persistent or pervasive enough to limit or deny:
   (a) A student the ability to effectively participate in or benefit from the programs and education offered by the institution; or
   (b) An employee the ability to effectively or comfortably work at the institution.

Sec. 24.5. 1. The Board of Regents may require an institution within the System to consider a request from a reporting party who is 18 years of age or older to keep the identity of the reporting party confidential or take no investigative or disciplinary action against a responding party. An institution shall not grant such a request if state or federal law requires disclosure or further action. In determining whether to grant such a request, the institution shall consider whether there is a risk that the responding party may commit additional acts of sexual misconduct, violence, discrimination or harassment.
based on whether one or more of the following factors are present to a sufficient degree:

(a) There are any previous or existing reports of an incident of sexual misconduct, violence, discrimination or harassment against the responding party;

(b) The responding party allegedly used a weapon;

(c) The responding party threatened violence, discrimination or harassment against the reporting party or other persons;

(d) The alleged incident of sexual misconduct was alleged to have been committed by two or more people;

(e) The circumstances surrounding the alleged incident of sexual misconduct indicate that the incident was premeditated and, if so, whether the responding party or another person allegedly premeditated the incident;

(f) The circumstances surrounding the alleged incident of sexual misconduct indicate a pattern of consistent behavior at a particular location or by a particular group of people;

(g) The institution is able to conduct a thorough investigation and obtain relevant evidence without the cooperation of the reporting party; and

(h) There are any other factors that indicate the responding party may repeat the behavior alleged by the reporting party or that the reporting party or other persons may be at risk of harm.

2. If an institution within the System grants a request for confidentiality or to not take any investigative or disciplinary action pursuant to subsection 1, the institution shall take reasonable steps to, without initiating formal action against the responding party:

(a) Respond to the report of the alleged incident of sexual misconduct while maintaining the confidentiality of the reporting party;

(b) Limit the effects of the alleged incident of sexual misconduct; and

(c) Prevent the recurrence of any misconduct.

3. Reasonable steps taken pursuant to subsection 2 may include, without limitation:

(a) Increased monitoring, supervision or security at locations or activities where the alleged incident of sexual misconduct occurred;

(b) Providing additional training and educational materials for students and employees, including, without limitation, information on options for anonymous reporting, confidential reporting, formal complaints and informal resolutions; or

(c) Ensuring a reporting party is informed of and has access to appropriate supportive measures.

4. If an institution within the System grants a request for confidentiality or to not take any investigative or disciplinary action pursuant to subsection 1, the institution shall inform the reporting party that the ability of the institution to respond to the report of the alleged incident of sexual misconduct will be limited by the request.
5. If an institution within the System determines that it cannot grant a request for confidentiality or to not take any investigative or disciplinary action pursuant to subsection 1, the institution shall:
   (a) Inform the reporting party of the determination before disclosing the identity of the reporting party or initiating an investigation;
   (b) Provide supportive measures for the reporting party; and
   (c) If requested by the reporting party, inform the responding party that the reporting party asked the institution not to take investigative or disciplinary action against the responding party.

Sec. 24.7. 1. In conducting an investigation of an alleged incident of sexual misconduct an institution within the System shall:
   (a) Provide the reporting party and the responding party the opportunity to identify witnesses and other evidence to assist the institution in determining whether an alleged incident of sexual misconduct has occurred;
   (b) Inform the reporting party and the responding party that any evidence available to the party but not disclosed during the investigation might not be considered at a subsequent hearing; and
   (c) Equitably collect and use evidence, including, without limitation, providing that:
      (1) Except as otherwise authorized by this section, an investigator may not consider the sexual history of a reporting party or responding party;
      (2) An investigator may not consider any previous or subsequent sexual history between the reporting party and any party other than the responding party unless the history is directly relevant to prove that any physical injuries alleged to have been inflicted by the responding party were inflicted by another person;
      (3) An investigator may not consider the existence of a dating relationship or previous or subsequent consensual sexual conduct between the reporting party and the responding party unless the evidence is relevant to demonstrate how the parties communicated consent in previous or subsequent consensual sexual conduct; and
      (4) An investigator shall provide a written and verbal explanation to the reporting party and the responding party as to why consideration of any evidence is consistent with this paragraph before proffering any evidence for consideration in an investigation or hearing.

2. The fact that a reporting party and responding party engaged in any previous or subsequent consensual sexual relations is not by itself sufficient to establish that the conduct in question was consensual.

3. Notwithstanding the provisions of section 24.8 of this act, an investigation conducted in response to an alleged incident of sexual misconduct must take not more than 120 days.

4. An institution within the System shall provide periodic updates on the investigation to the reporting party and the responding party regarding the timeline of the investigation.
5. An institution within the System shall notify the reporting party and the responding party of the findings of an investigation simultaneously.

6. If an institution within the System imposes any disciplinary action based on the findings of an investigation on a responding party, such disciplinary action must be imposed in accordance with the grievance process of the institution.

Sec. 24.8. 1. After conducting an investigation pursuant to section 24.7 of this act, an institution within the System shall determine whether to hold a hearing. In determining whether to hold a hearing, the institution may consider whether the reporting party and responding party cooperated in the investigation and whether each party had the opportunity to suggest questions to be asked of the other party or witnesses, or both, during the investigation. The following rules apply to any hearing conducted pursuant to this section:

(a) Except as otherwise determined by the hearing officer, the reporting party or responding party may not introduce evidence, including, without limitation, witness testimony, at the hearing that was not disclosed or available during the investigation conducted pursuant to section 24.7 of this act. The hearing officer may accept such evidence for good cause.

(b) Except as otherwise required by federal law, any cross examination of the reporting party, the responding party or any witness may not be conducted directly by the reporting party or responding party, or an advisor to the reporting party or responding party, as applicable.

(c) The reporting party, the responding party or any witness may request to answer questions by videoconference.

(d) The reporting party and the responding party shall have the opportunity to submit written questions to the hearing officer in advance of the hearing. At the hearing, the reporting party and the responding party shall have the opportunity to note an objection to any question posed by the other party. The hearing officer may limit objections to written form. The hearing officer shall note an objection on the record, but is not otherwise required to respond to an objection. The hearing officer shall discard or rephrase any question the hearing officer deems to be repetitive, irrelevant or harassing. In making a determination pursuant to this paragraph, the hearing officer may use, but is not bound by, the rules of evidence at common law.

(e) All determinations must be based on a preponderance of the evidence.

2. Except as otherwise provided in this subsection, an institution within the System that receives a report shall take not more than 60 calendar days to reach a final determination regarding the alleged incident of sexual misconduct. An institution may take more than 60 calendar days to reach a final determination for good cause, which includes, without limitation, unworked holiday breaks, a mutual agreement of the reporting party and the responding party or waiting for evidence that has been requested from a third party. Good cause does not include, without limitation, worked holiday breaks, distance barriers that can be overcome through videoconferencing.
graduation of one of the parties, unnecessary requests for delay that the institution reasonably perceives to be delay tactics or police investigations that require more than a temporary delay.

3. The institution shall inform the parties of the appeals process in accordance with its grievance process.

4. An institution within the System shall provide periodic updates on any hearing or appeals process to the reporting party and responding party, including, without limitation, written notice of any delays.

Sec. 24.9. 1. An institution within the System may issue a no-contact directive prohibiting the responding party and the reporting party from contacting each other during the pendency of an investigation and hearing. An institution may issue a no-contact directive if the directive is necessary to:
   (a) Protect the safety or well-being of either the reporting party or the responding party; or
   (b) Respond to interference with an investigation.

2. A no-contact directive issued after a decision of responsibility against the responding party has been made is unilateral and applies only against the responding party.

3. If an institution issues a mutual no-contact directive, the institution shall provide the reporting party and the responding party with a written justification for the directive and an explanation of the terms of the directive, including, without limitation, a description of the circumstances, if any, under which a violation of the directive may subject the party to disciplinary action.

Sec. 24.95. 1. A student who experiences sexual misconduct may request a waiver from any requirement to maintain a certain grade point average, credit enrollment, or other academic or disciplinary record requirement relating to academic success for any scholarship, grant or other academic program offered by an institution within the System. A waiver may be granted by a confidential resource advisor designated pursuant to section 20 of this act, the Title IX coordinator of the institution, a law enforcement officer employed by the institution, an academic advisor or staff member of a disability resource center of the institution.

2. A student or employee who experiences sexual misconduct must be granted a request to take a leave of absence or, to the extent practicable, extend benefits of employment.

Sec. 25. 1. The Board of Regents may require an institution within the System to prepare and submit to the Board of Regents an annual report that includes, without limitation:
   (a) The total number of reports of alleged incidents of sexual misconduct made to the institution;
   (b) The number of investigations initiated by a law enforcement agency in response to reports of alleged incidents of sexual misconduct, if known;
   (c) The number of students and employees found responsible for an incident of sexual misconduct by the institution;
(c) The number of students and employees accused of but found not responsible for an incident of sexual misconduct by the institution; and
(d) The number of sanctions or remedies imposed on a responding party, persons sanctioned by the institution as a result of a finding of responsibility for an incident of sexual misconduct or the number of remedies provided to a reporting party;
(e) The number of persons who submitted requests for supportive measures and the number of persons who received supportive measures; and
(f) The number of reporting parties who took a leave of absence, transferred to another institution or withdrew from the institution.

2. A report submitted pursuant to subsection 1 must not contain any personally identifiable information of a student or employee of an institution within the System.

3. If the Board of Regents requires a report to be prepared and submitted pursuant to subsection 1, an institution shall submit the report to the Board of Regents not later than October 1 of each year.

4. If the Board of Regents requires a report to be prepared and submitted pursuant to subsection 1, the Board of Regents shall, not later than December 31 of each year, submit a compilation of the reports the Board of Regents received pursuant to subsection 1 to the Director of the Department of Health and Human Services and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature in even-numbered years or the Legislative Committee on Education in odd-numbered years.

5. Any data or reports that underline the report prepared pursuant to subsection 3 are confidential and are not a public record for the purposes of chapter 239 of NRS.

Sec. 26. 1. The Board of Regents may, after reasonable notice and opportunity for hearing, determine that an institution within the System failed to comply with a requirement imposed by the Board of Regents pursuant to sections 2 to 27, inclusive, of this act. If the Board of Regents determines an institution failed to comply with a requirement imposed by the Board, the Board may, for each violation, impose a fine of not more than $150,000 or 1 percent of the annual operating budget of the institution, whichever is less, against the institution.

2. The Board of Regents shall use any money collected from the imposition of a fine pursuant to subsection 1 to administer and enforce the provisions of sections 2 to 27, inclusive, of this act.

Sec. 27. The Board of Regents may adopt regulations as necessary to carry out the provisions of sections 2 to 27, inclusive, of this act.

Sec. 27.1. NRS 396.585 is hereby amended to read as follows:

396.585 1. The Board of Regents shall require each student who participates as a member of a varsity athletic team which represents the University of Nevada, Reno, or the University of Nevada, Las Vegas, to make
satisfactory progress toward obtaining a degree as a condition of participation as a member of the team.

2. The Board of Regents shall establish standards for determining whether a student is making satisfactory progress toward obtaining his or her degree as required by this section. Except as otherwise provided in section 24.95 of this act, the standards must:

(a) Include a requirement that a student enroll in a sufficient number of courses in each semester that are required to obtain the academic degree the student is seeking to allow the student to complete the requirements for obtaining the degree within a reasonable period after the student’s admission.

(b) Include a requirement that a student maintain a minimum grade point average in the courses required pursuant to paragraph (a).

Sec. 27.3. NRS 396.890 is hereby amended to read as follows:

396.890 1. The Board of Regents may administer, directly or through a designated officer or employee of the System, a program to provide loans for fees, books and living expenses to students in the nursing programs of the System.

2. Each student to whom a loan is made must:

(a) Have been a “bona fide resident” of Nevada, as that term is defined in NRS 396.540, for at least 6 months prior to the “matriculation” of the student in the System, as that term is defined pursuant to NRS 396.540;

(b) Be enrolled at the time the loan is made in a nursing program of the System for the purpose of becoming a licensed practical nurse or registered nurse;

(c) Except as otherwise provided in section 24.95 of this act, fulfill all requirements for classification as a full-time student showing progression towards completion of the program; and

(d) Except as otherwise provided in section 24.95 of this act, maintain at least a 2.00 grade point average in each class and at least a 2.75 overall grade point average, on a 4.0 grading scale.

3. Each loan must be made upon the following terms:

(a) All loans must bear interest at 8 percent per annum from the date when the student receives the loan.

(b) Each student receiving a loan must repay the loan with interest following the termination of the student’s education for which the loan is made. The loan must be repaid in monthly installments over the period allowed with the first installment due 1 year after the date of the termination of the student’s education for which the loan is made. The amounts of the installments must not be less than $50 and may be calculated to allow a smaller payment at the beginning of the period of repayment, with each succeeding payment gradually increasing so that the total amount due will have been paid within the period for repayment. The period for repayment of the loans must be:

(1) Five years for loans which total less than $10,000.
(2) Eight years for loans which total $10,000 or more, but less than $20,000.
(3) Ten years for loans which total $20,000 or more.

4. A delinquency charge may be assessed on any installment delinquent 10 days or more in the amount of 8 percent of the installment or $4, whichever is greater, but not more than $15.

5. The reasonable costs of collection and an attorney’s fee may be recovered in the event of delinquency.

Sec. 27.5. NRS 396.930 is hereby amended to read as follows:

396.930 1. Except as otherwise provided in subsections 2 and 4, a student may apply to the Board of Regents for a Millennium Scholarship if the student:
   (a) Except as otherwise provided in paragraph (e) of subsection 2, has been a resident of this State for at least 2 years before the student applies for the Millennium Scholarship;
   (b) Except as otherwise provided in paragraph (c), graduated from a public or private high school in this State:
      (1) After May 1, 2000, but not later than May 1, 2003; or
      (2) After May 1, 2003, and, except as otherwise provided in paragraphs (c), (d) and (f) of subsection 2, not more than 6 years before the student applies for the Millennium Scholarship;
   (c) Does not satisfy the requirements of paragraph (b) and:
      (1) Was enrolled as a pupil in a public or private high school in this State with a class of pupils who were regularly scheduled to graduate after May 1, 2000;
      (2) Received his or her high school diploma within 4 years after he or she was regularly scheduled to graduate; and
      (3) Applies for the Millennium Scholarship not more than 6 years after he or she was regularly scheduled to graduate from high school;
   (d) Except as otherwise provided in paragraph (e), maintained in high school in the courses designated by the Board of Regents pursuant to paragraph (b) of subsection 2, at least:
      (1) A 3.00 grade point average on a 4.0 grading scale, if the student was a member of the graduating class of 2003 or 2004;
      (2) A 3.10 grade point average on a 4.0 grading scale, if the student was a member of the graduating class of 2005 or 2006; or
      (3) A 3.25 grade point average on a 4.0 grading scale, if the student was a member of the graduating class of 2007 or a later graduating class;
   (e) Does not satisfy the requirements of paragraph (d) and received at least the minimum score established by the Board of Regents on a college entrance examination approved by the Board of Regents that was administered to the student while the student was enrolled as a pupil in a public or private high school in this State; and
(f) Except as otherwise provided in NRS 396.936, and section 24.95 of this act, is enrolled in at least:

1. Nine semester credit hours in a community college within the System;
2. Twelve semester credit hours in another eligible institution; or
3. A total of 12 or more semester credit hours in eligible institutions if the student is enrolled in more than one eligible institution.

2. The Board of Regents:
   (a) Shall define the core curriculum that a student must complete in high school to be eligible for a Millennium Scholarship.
   (b) Shall designate the courses in which a student must earn the minimum grade point averages set forth in paragraph (d) of subsection 1.
   (c) May establish criteria with respect to students who have been on active duty serving in the Armed Forces of the United States to exempt such students from the 6-year limitation on applications that is set forth in subparagraph (2) of paragraph (b) of subsection 1.
   (d) Shall establish criteria with respect to students who have a documented physical or mental disability or who were previously subject to an individualized education program under the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., or a plan under Title V of the Rehabilitation Act of 1973, 29 U.S.C. §§ 791 et seq. The criteria must provide an exemption for those students from:
      (1) The 6-year limitation on applications that is set forth in subparagraph (2) of paragraph (b) of subsection 1 and subparagraph (3) of paragraph (c) of subsection 1 and any limitation applicable to students who are eligible pursuant to subparagraph (1) of paragraph (b) of subsection 1.
      (2) The minimum number of credits prescribed in paragraph (f) of subsection 1.
   (e) Shall establish criteria with respect to students who have a parent or legal guardian on active duty in the Armed Forces of the United States to exempt such students from the residency requirement set forth in paragraph (a) of subsection 1 or subsection 4.
   (f) Shall establish criteria with respect to students who have been actively serving or participating in a charitable, religious or public service assignment or mission to exempt such students from the 6-year limitation on applications that is set forth in subparagraph (2) of paragraph (b) of subsection 1. Such criteria must provide for the award of Millennium Scholarships to those students who qualify for the exemption and who otherwise meet the eligibility criteria to the extent that money is available to award Millennium Scholarships to the students after all other obligations for the award of Millennium Scholarships for the current school year have been satisfied.

3. If the Board of Regents requires a student to successfully complete courses in mathematics or science to be eligible for a Millennium Scholarship, a student who has successfully completed one or more courses in computer science described in NRS 389.0186 must be allowed to apply not more than
one unit of credit received for the completion of such courses toward that requirement.

4. Except as otherwise provided in paragraph (c) of subsection 1, for students who did not graduate from a public or private high school in this State and who, except as otherwise provided in paragraph (e) of subsection 2, have been residents of this State for at least 2 years, the Board of Regents shall establish:
   (a) The minimum score on a standardized test that such students must receive; or
   (b) Other criteria that students must meet, to be eligible for Millennium Scholarships.

5. In awarding Millennium Scholarships, the Board of Regents shall enhance its outreach to students who:
   (a) Are pursuing a career in education or health care;
   (b) Come from families who lack sufficient financial resources to pay for the costs of sending their children to an eligible institution; or
   (c) Substantially participated in an antismoking, antidrug or antialcohol program during high school.

6. The Board of Regents shall establish a procedure by which an applicant for a Millennium Scholarship is required to execute an affidavit declaring the applicant’s eligibility for a Millennium Scholarship pursuant to the requirements of this section. The affidavit must include a declaration that the applicant is a citizen of the United States or has lawful immigration status, or that the applicant has filed an application to legalize the applicant’s immigration status or will file an application to legalize his or her immigration status as soon as he or she is eligible to do so.

Sec. 27.7. NRS 396.934 is hereby amended to read as follows:

396.934 1. Except as otherwise provided in this section, within the limits of money available in the Trust Fund, a student who is eligible for a Millennium Scholarship is entitled to receive:
   (a) If he or she is enrolled in a community college within the System, including, without limitation, a summer academic term, $40 per credit for each lower division course and $60 per credit for each upper division course in which the student is enrolled, or the amount of money that is necessary for the student to pay the costs of attending the community college that are not otherwise satisfied by other grants or scholarships, whichever is less. The Board of Regents shall provide for the designation of upper and lower division courses for the purposes of this paragraph.
   (b) If he or she is enrolled in a state college within the System, including, without limitation, a summer academic term, $60 per credit for which the student is enrolled, or the amount of money that is necessary for the student to pay the costs of attending the state college that are not otherwise satisfied by other grants or scholarships, whichever is less.
(c) If he or she is enrolled in another eligible institution, including, without limitation, a summer academic term, $80 per credit for which the student is enrolled, or the amount of money that is necessary for the student to pay the costs of attending the university that are not otherwise satisfied by other grants or scholarships, whichever is less.

(d) If he or she is enrolled in more than one eligible institution, including, without limitation, a summer academic term, the amount authorized pursuant to paragraph (a), (b) or (c), or a combination thereof, in accordance with procedures and guidelines established by the Board of Regents.

In no event may a student who is eligible for a Millennium Scholarship receive more than the cost of 15 semester credits per semester pursuant to this subsection.

2. No student may be awarded a Millennium Scholarship:

(a) To pay for remedial courses.

(b) For a total amount in excess of $10,000.

3. Except as otherwise provided in NRS 396.936 and section 24.95 of this act, a student who receives a Millennium Scholarship shall:

(a) Make satisfactory academic progress toward a recognized degree or certificate, as determined by the Board of Regents pursuant to subsection 8; and

(b) Maintain at least a 2.75 grade point average on a 4.0 grading scale for each semester of enrollment in the Governor Guinn Millennium Scholarship Program.

4. A student who receives a Millennium Scholarship is encouraged to volunteer at least 20 hours of community service for this State, a political subdivision of this State or a charitable organization that provides service to a community or the residents of a community in this State during each year in which the student receives a Millennium Scholarship.

5. If a student does not satisfy the requirements of subsection 3 during one semester of enrollment, excluding a summer academic term, he or she is not eligible for the Millennium Scholarship for the succeeding semester of enrollment. If such a student:

(a) Subsequently satisfies the requirements of subsection 3 in a semester in which he or she is not eligible for the Millennium Scholarship, the student is eligible for the Millennium Scholarship for the student’s next semester of enrollment.

(b) Fails a second time to satisfy the requirements of subsection 3 during any subsequent semester, excluding a summer academic term, the student is no longer eligible for a Millennium Scholarship.

6. A Millennium Scholarship must be used only:

(a) For the payment of registration fees and laboratory fees and expenses;

(b) To purchase required textbooks and course materials; and

(c) For other costs related to the attendance of the student at the eligible institution.
7. The Board of Regents shall certify a list of eligible students to the State Treasurer. The State Treasurer shall disburse a Millennium Scholarship for each semester on behalf of an eligible student directly to the eligible institution in which the student is enrolled, upon certification from the eligible institution of the number of credits for which the student is enrolled, which must meet or exceed the minimum number of credits required for eligibility and certification that the student is in good standing and making satisfactory academic progress toward a recognized degree or certificate, as determined by the Board of Regents pursuant to subsection 8. The Millennium Scholarship must be administered by the eligible institution as other similar scholarships are administered and may be used only for the expenditures authorized pursuant to subsection 6. If a student is enrolled in more than one eligible institution, the Millennium Scholarship must be administered by the eligible institution at which the student is enrolled in a program of study leading to a recognized degree or certificate.

8. The Board of Regents shall establish:
(a) Criteria for determining whether a student is making satisfactory academic progress toward a recognized degree or certificate for purposes of subsection 7.
(b) Procedures to ensure that all money from a Millennium Scholarship awarded to a student that is refunded in whole or in part for any reason is refunded to the Trust Fund and not the student.
(c) Procedures and guidelines for the administration of a Millennium Scholarship for students who are enrolled in more than one eligible institution.

Sec. 27.9. NRS 396.945 is hereby amended to read as follows:

396.945 1. The Board shall annually award the Memorial Scholarship to:
(a) Two recipients who are students enrolled at:
(1) The University of Nevada, Reno, Great Basin College or Sierra Nevada College;
(2) A nonprofit university which awards a bachelor’s degree in education to residents of northern Nevada; or
(3) Any other college or university which awards a bachelor’s degree in education and which is designated by the Board as an institution representative of northern Nevada; and
(b) Two recipients who are students enrolled at:
(1) The University of Nevada, Las Vegas, or Nevada State College;
(2) A nonprofit university which awards a bachelor’s degree in education to residents of southern Nevada; or
(3) Any other college or university which awards a bachelor’s degree in education and which is designated by the Board as an institution representative of southern Nevada.
2. The Board shall establish additional criteria governing the annual selection of each recipient of the Memorial Scholarship, which must include, without limitation, a requirement that a recipient:
   (a) Be in or entering his or her senior year at an academic institution described in subsection 1;
   (b) Satisfy the eligibility requirements for a Millennium Scholarship set forth in NRS 396.930;
   (c) Except as otherwise provided in section 24.95 of this act, have a college grade point average of not less than 3.5 on a 4.0 grading scale or, if enrolled at an academic institution that does not use a grade point system to measure academic performance, present evidence acceptable to the Board that demonstrates a commensurate level of academic achievement;
   (d) Have a declared major in elementary education or secondary education;
   (e) Have a stated commitment to teaching in this State following graduation; and
   (f) Have a record of community service.

3. A student who satisfies the criteria established pursuant to this section may apply for a Memorial Scholarship by submitting an application to the Office of the State Treasurer on a form provided on the Internet website of the State Treasurer.

4. The State Treasurer shall forward all applications received pursuant to subsection 3 to the Board. The Board shall review and evaluate each application received from the State Treasurer and select each recipient of the Memorial Scholarship in accordance with the criteria established pursuant to this section.

5. To the extent of available money in the account established pursuant to NRS 396.940, the annual Memorial Scholarship may be awarded to each selected recipient in an amount not to exceed $5,000 to pay the educational expenses of the recipient for the school year which are authorized by subsection 6 and which are not otherwise paid for by the Millennium Scholarship awarded to the recipient.

6. A Memorial Scholarship must be used only:
   (a) For the payment of registration fees and laboratory fees and expenses;
   (b) To purchase required textbooks and course materials; and
   (c) For other costs related to the attendance of the student at the academic institution in which he or she is enrolled.

7. As used in this section, “Board” means the Board of Trustees of the College Savings Plans of Nevada created by NRS 353B.005.

Sec. 28. NRS 49.2545 is hereby amended to read as follows:
49.2545 “Victim’s advocate” means a person who works for a nonprofit program, a program of a university, state college or community college within the Nevada System of Higher Education or a program of a tribal organization which provides assistance to victims or who provides services to a victim of an alleged incident of sexual misconduct pursuant to sections 2 to 27,
inclusive, of this act with or without compensation and who has received at
least 20 hours of relevant training.

Sec. 28.5. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and
NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420,
75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615,
87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067,
88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270,
119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161,
126.163, 126.730, 127.057, 127.130, 127.140, 127.2817, 128.090,
130.312, 130.712, 136.050, 139.044, 139A.044, 172.075, 172.245,
176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630,
178.39801, 178.4715, 178.5691, 178.910, 179A.070, 179A.165, 179D.160,
200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392,
209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140, 213.010,
213.030, 213.040, 213.095, 213.131, 217.105, 217.110, 217.475,
218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 226.300,
228.270, 228.450, 228.495, 228.570, 231.106, 231.1473, 233.190,
233.191, 237.095, 237.110, 237.464, 237.475, 238.130, 238.135,
238.1379, 238.1593, 238.1725, 238.1727, 238.420, 238.423,
238.750, 238.910, 239B.030, 239B.050, 239C.140, 239C.210, 239C.230,
242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087,
250.130, 250.140, 250.150, 268.095, 268.0978, 268.490, 268.910,
281A.750, 281A.755, 281A.780, 284.4068, 286.110, 286.118, 287.0438,
289.025, 289.080, 289.387, 289.830, 293.8555, 293.5002, 293.503,
293.504, 293.757, 293.870, 293.906, 293.908, 293.910, 293B.135,
293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070,
338.1379, 338.1593, 338.1725, 338.1727, 348.420, 348.597,
349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240,
360.247, 360.255, 360.755, 361.044, 361.2242, 361.610, 365.138,
366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300,
379.0075, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631,
388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247,
388A.249, 391.033, 391.035, 391.0365, 391.038, 391.925, 392.029,
392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327,
392.335, 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447,
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398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 414.280,
416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236,
427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407,
432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534, 433A.360,
437.145, 437.207, 439.4941, 439.840, 439.914, 439B.420, 439B.754,
439B.760, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395,
442.735, 442.774,
sections 14, 15 and 25 of this act, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.
3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate, including, without limitation, electronically, the confidential information from the information included in the public book or record that is not otherwise confidential.

4. If requested, a governmental entity shall provide a copy of a public record in an electronic format by means of an electronic medium. Nothing in this subsection requires a governmental entity to provide a copy of a public record in an electronic format or by means of an electronic medium if:
   (a) The public record:
      (1) Was not created or prepared in an electronic format; and
      (2) Is not available in an electronic format; or
   (b) Providing the public record in an electronic format or by means of an electronic medium would:
      (1) Give access to proprietary software; or
      (2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.

5. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:
   (a) Shall not refuse to provide a copy of that public record in the medium that is requested because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.
   (b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 29. 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. 30. 1. This section becomes effective upon passage and approval.
2. Section 12 of this act becomes effective upon passage and approval for the purpose of appointing members to the Task Force on Sexual Misconduct at Institutions of Higher Education and on July 1, 2021, for all other purposes.
3. Sections 1 to 11, inclusive, and 13 to 30, inclusive, of this act become effective on July 1, 2021.

Senator Denis moved the adoption of the amendment.
Remarks by Senator Denis.
(To be entered at a later date.)

Amendment adopted.
Senator Brooks moved that the bill be re-referred to the Committee on Finance, upon return from reprint.
Motion carried.
Bill ordered reprinted, engrossed and to the Committee on Finance.

Senate Bill No. 349.
Bill read third time.
The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 272.
SUMMARY—Revises provisions relating to public health. (BDR 40-90)

AN ACT relating to public health; [excluding certain materials from the provisions governing the disposal of solid waste] providing that an ordinance for the licensing and regulating of farmers’ markets may not prohibit the sale of unpackaged produce at a licensed farmers’ market; providing that the State Board of Health or a local board of health may not adopt regulations that prohibit the sale of unpackaged produce at a licensed farmers’ market; authorizing the governing body of a county or city to allow the use of certain land for community composting; authorizing a governing body of a county or city to establish an urban composting zone; providing that a master plan adopted by a planning commission or the governing body of a county or city may include an urban composting element; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

[Existing law requires a county, a city or a district board of health, if created, to develop a plan to provide for a solid waste management system that adequately provides for the management and disposal of solid waste within the area of the system. (NRS 444.510) Existing law sets forth penalties for a person who is found guilty of illegally disposing of solid waste. (NRS 444.630, 444.635) Existing law also provides restrictions on the rules adopted by an association in certain planned communities relating to the location of containers for the collection of solid waste or recyclable materials. (NRS 116.332) Section 1 of this bill excludes from the applicability of such provisions compostable materials that are: (1) inoculated with an effective microorganism and placed in sealed containers for a length of time sufficient for fermentation to occur under anaerobic conditions and promote acidification of the materials; and (2) delivered promptly to a person who holds a certificate as an actual producer of farm products issued by the State Department of Agriculture or who is approved to receive the materials by a person or governmental entity that has been accredited as a certifying agent pursuant to the National Organic Program of the United States Department of Agriculture. (7 C.F.R. Part 205)

Existing law authorizes counties and cities to grant exclusive franchises to any person or entity to provide services for the collection and disposal of garbage and other waste. (NRS 244.187, 244.188, 268.081) Sections 3, 4 and 6 of this bill clarify that such other waste does not include the compostable materials described in section 1.]
Existing law sets forth provisions governing the regulation of food establishments. (Chapter 446 of NRS) Existing law also requires that such provisions be enforced by the health authority, in accordance with regulations adopted by the State Board of Health or a local board of health. (NRS 446.940) Existing law defines “food establishment” to mean any place, structure, premises, vehicle or vessel in which any food intended for ultimate human consumption is manufactured or prepared, or in which any food is sold, offered or displayed. (NRS 446.020) Because a farmers’ market is a place in which food is sold, existing law requires a farmers’ market to comply with provisions of law governing food establishments. Section 2 of this bill provides that the State Board of Health or a local board of health may not adopt regulations for the sale of unpackaged produce at a licensed farmers’ market, but such regulations may not prohibit the sale of unpackaged produce at a licensed farmers’ market.

Existing law authorizes local governments, city councils or other governing bodies to provide by ordinance for the licensing and regulating of farmers’ markets. (NRS 244.337, 268.092) Sections 5 and 7 of this bill provide that such an ordinance: (1) may not prohibit the sale of unpackaged produce at a licensed farmers’ market; and (2) may otherwise regulate the sale of unpackaged produce at a licensed farmers’ market.

Existing law sets forth the powers and duties of a governing body of a city or county related to planning and zoning. (Chapter 278 of NRS) Section 7.1 of this bill authorizes a governing body of a city or county to establish an urban composting zone by ordinance. Sections 7.3-7.5 of this bill indicate the placement of section 7.1 in the Nevada Revised Statutes.

Sections 4.5 and 5.5 of this bill authorize a governing body of a city or county to establish by ordinance terms and conditions for the use of land owned by the city or county for the purpose of community composting. Section 7.8 of this bill makes a conforming change to indicate the placement of section 4.5 in the Nevada Revised Statutes.

Under existing law, a master plan may include certain elements as appropriate to a county, city or region, with the exception of certain cities and counties which must include all or a portion of certain elements in a master plan. (NRS 278.150-278.170) Section 7.7 of this bill provides that a master plan may also include an urban composting element. An urban composting element must include a plan to inventory any lands owned by the city or county to determine if such lands may be suitable for urban composting.

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

Section 1. [NRS 444.490 is hereby amended to read as follows:]

444.490  1. “Solid waste” means all putrescible and nonputrescible refuse in solid or semisolid form, including, but not limited to, garbage, rubbish, junk vehicles, ashes or incinerator residues, street refuse, dead animals,
demolition waste, construction waste, solid or semisolid commercial and industrial waste.

2. The term does not include:

(a) Hazardous waste managed pursuant to NRS 459.400 to 459.600, inclusive.

(b) A vehicle described in subparagraph (2) of paragraph (b) of subsection 1 of NRS 444.620.

(c) Compostable materials which are:

(1) Inoculated with an effective microorganism and placed in sealed containers for a length of time sufficient for fermentation to occur under anaerobic conditions and promote acidification of the materials, and

(2) Delivered promptly to a person who holds a certificate as an actual producer of farm products issued pursuant to NRS 576.128 or who is approved to receive the materials by a person or governmental entity that has been accredited as a certifying agent pursuant to 7 C.F.R. Part 205.

Sec. 2. NRS 446.940 is hereby amended to read as follows:

446.940  1. Except as provided in subsections 2 and 3, this chapter must be enforced by the health authority in accordance with regulations hereby authorized to be adopted by the State Board of Health to carry out the requirements of this chapter.

2. Except as otherwise provided in subsection 3, a local board of health may adopt such regulations as it may deem necessary to carry out the requirements of this chapter. Such regulations:

(a) Become effective when approved by the State Board of Health;

(b) Must be enforced by the health authority; and

(c) Supersede the regulations adopted by the State Board of Health pursuant to subsection 1.

3. The State Board of Health or a local board of health shall adopt regulations for the sale of unpackaged produce at a farmers' market licensed pursuant to NRS 244.337 or 268.092. Such regulations must not prohibit the sale of unpackaged produce at a farmers' market licensed pursuant to NRS 244.337 or 268.092.

4. All sheriffs, constables, police officers, marshals and other peace officers shall render such services and assistance to the health authority in regard to enforcement as the health authority may request.

Sec. 3. NRS 244.187 is hereby amended to read as follows:

244.187  1. A board of county commissioners may, to provide adequate, economical and efficient services to the inhabitants of the county and to promote the general welfare of those inhabitants, displace or limit competition in any of the following areas:

(1) Ambulance service.

(2) Taxicabs and other public transportation, unless regulated in that county by an agency of the State.
(c) Collection and disposal of garbage and other waste.

(d) Operations at an airport, including, but not limited to, the leasing of motor vehicles and the licensing of concession stands, but excluding police protection and fire protection.

(e) Water and sewage treatment, unless regulated in that county by an agency of the State.

(f) Concessions on, over or under property owned or leased by the county.

(g) Operation of landfills.

(h) Except as otherwise provided in NRS 277A.330, construction and maintenance of benches and shelters for passengers of public mass transportation.

2. As used in this section, “waste” does not include compostable materials which are:

(a) Inoculated with an effective microorganism and placed in sealed containers for a length of time sufficient for fermentation to occur under anaerobic conditions and promote acidification of the materials; and

(b) Delivered promptly to a person who holds a certificate as an actual producer of farm products issued pursuant to NRS 576.128 or who is approved to receive the materials by a person or governmental entity that has been accredited as a certifying agent pursuant to 7 C.F.R. Part 205.

Sec. 4. NRS 244.188 is hereby amended to read as follows:

244.188 1. Except as otherwise provided in subsection 3 and NRS 260.128 and 260.129, a board of county commissioners may, outside the boundaries of incorporated cities and general improvement districts:

(a) Provide those services set forth in NRS 244.187 on an exclusive basis or, by ordinance, adopt a regulatory scheme for controlling the provision of those services or controlling development in those areas on an exclusive basis;

(b) Grant an exclusive franchise to any person to provide those services.

2. If services for the collection and disposal of garbage are provided pursuant to subsection 1, the board of county commissioners may, except as otherwise provided in subsection 3, require owners of real property outside the boundaries of incorporated cities and general improvement districts to receive and pay for those services.

3. The board of county commissioners may exercise the authority provided in subsections 1 and 2 within the boundaries of a general improvement district if that district:

(a) Is not authorized to provide those services; and

(b) Includes any real property within 7 miles from the boundary of an incorporated city.

4. If an exclusive franchise is granted or a regulatory scheme is adopted for the mandatory collection and disposal of garbage and other waste, the
initial boundaries of the collection area must be the same as the boundaries of an existing collection area under an exclusive franchise or regulatory scheme.

5. The board of county commissioners may expand the boundaries of a collection area established pursuant to subsection 4 after the board has:

(a) Conducted preliminary studies and determined that the proposed collection area is economically sound and feasible and promotes the health, safety and general welfare of the inhabitants of the county; and

(b) Held a public hearing on the proposed collection area after giving notice of the time and the place of the hearing in a newspaper of general circulation in that county. The notice must include the purpose of the hearing and describe the boundaries of the proposed collection area.

6. As used in this section, “waste” has the meaning ascribed to it in NRS 244.187. (Deleted by amendment.)

Sec. 4.5. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A board of county commissioners may, by ordinance, authorize the use of county land for the purpose of community composting under such terms and conditions established for the use of the county land as set forth by the ordinance. The ordinance:

(a) May, without limitation:

(1) Establish fees for the use of the county land for a community composting location;

(2) Provide requirements for liability insurance; and

(3) Provide requirements for a deposit to use the county land for a community composting location, which may be refunded.

(b) Must require that promptly after any compostable materials have been sealed for a sufficient amount of time for fermentation to occur, the compostable materials must be delivered to:

(1) A holder of a certificate as an actual producer of farm products pursuant to NRS 576.128; or

(2) A person or operation certified pursuant to 7 C.F.R. Part 205.

2. As used in this section, “community composting location” means a location at which members of the public may dispose of compostable materials to be inoculated with an effective microorganism and placed in a sealed container for a period of time sufficient for fermentation to occur under anaerobic conditions to promote acidification of the materials.

Sec. 5. NRS 244.337 is hereby amended to read as follows:

244.337 1. The board of county commissioners of any county may provide by ordinance for the licensing and regulating of farmers’ markets located outside of an incorporated city, including, without limitation, regulating the sale of unpackaged produce at a licensed farmers’ market. Any such ordinance must not prohibit the sale of unpackaged produce at a licensed farmers’ market.
2. Every person who establishes a farmers’ market shall make application to the board of county commissioners of the county in which the farmers’ market is to be located. The application must be in a form and manner prescribed by the board of county commissioners.

3. The board of county commissioners may:
   (a) Fix, impose and collect license fees upon the market.
   (b) Grant or deny applications for licenses or impose conditions, limitations and restrictions upon the license.
   (c) Adopt, amend and repeal regulations relating to the licenses and licensees of farmers’ markets.

Sec. 5.5. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of a city may, by ordinance, authorize the use of city land for the purpose of community composting under such terms and conditions established for the use of the city land as set forth by the ordinance.

The ordinance:
   (a) May, without limitation:
       (1) Establish fees for the use of the city land for a community composting location;
       (2) Provide requirements for liability insurance; and
       (3) Provide requirements for a deposit to use the city land for a community composting location, which may be refunded.
   (b) Must require that promptly after any compostable materials have been sealed for a sufficient amount of time for fermentation to occur, the compostable materials must be delivered to:
       (1) A holder of a certificate as an actual producer of farm products pursuant to NRS 576.128; or
       (2) A person or operation certified pursuant to 7 C.F.R. Part 205.

2. As used in this section, “community composting location” means a location at which members of the public may dispose of compostable materials to be inoculated with an effective microorganism and placed in a sealed container for a period of time sufficient for fermentation to occur under anaerobic conditions to promote acidification of the materials.

Sec. 6. NRS 268.081 is hereby amended to read as follows:

268.081 7. The governing body of an incorporated city may, to provide adequate, economical and efficient services to the inhabitants of the city and to promote the general welfare of those inhabitants, displace or limit competition in any of the following areas:

   [1.] (a) Ambulance service.
   [2.] (b) Taxicabs and other public transportation, unless regulated in that city by an agency of the State.
   [3.] (c) Collection and disposal of garbage and other waste.
[4.] (d) Operations at an airport, including, but not limited to, the leasing of motor vehicles and the licensing of concession stands, but excluding police protection and fire protection.

[5.] (e) Water and sewage treatment, unless regulated in that city by an agency of the State.

[6.] (f) Concessions on, over or under property owned or leased by the city.

[7.] (g) Operation of landfills.

[8.] (h) Search and rescue.

[9.] (i) Inspection required by any city ordinance otherwise authorized by law.

[10.] (j) Except as otherwise provided in NRS 277A.330, construction and maintenance of benches and shelters for passengers of public mass transportation.

[11.] (k) Any other service demanded by the inhabitants of the city which the city itself is otherwise authorized by law to provide.

2. As used in this section, “waste” has the meaning ascribed to it in NRS 244.187.

Sec. 7. NRS 268.092 is hereby amended to read as follows:

268.092 1. The city council or other governing body of any incorporated city in the State of Nevada, whether organized under general law or special charter, may provide by ordinance for the licensing and regulating of farmers’ markets, including, without limitation, regulating the sale of unpackaged produce at a licensed farmers’ market. Any such ordinance must not prohibit the sale of unpackaged produce at a licensed farmers’ market.

2. Every person who establishes a farmers’ market shall make application to the city council or other governing body of the incorporated city in which the farmers’ market is to be located. The application must be in a form and manner prescribed by the city council or other governing body.

3. The city council or other governing body may:

(a) Fix, impose and collect license fees upon the market.

(b) Grant or deny applications for licenses or impose conditions, limitations and restrictions upon the license.

(c) Adopt, amend and repeal regulations relating to the licenses and licensees of farmers’ markets.

Sec. 7.1. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A governing body of a city or county may, by ordinance, establish an urban composting zone within the boundaries of the city or county.

2. To establish an urban composting zone, the governing body must conduct at least one public hearing on the question of whether to establish the urban composting zone.

3. An ordinance adopted pursuant to this section:
(a) Must require that promptly after any compostable materials have been
sealed for a sufficient amount of time for fermentation to occur, the
compostable materials must be delivered to:

(1) A holder of a certificate as an actual producer of farm products
pursuant to NRS 576.128; or

(2) A person or operation certified pursuant to 7 C.F.R. Part 205.

(b) Must not prohibit the use of structures that support composting
activities, including, without limitation, toolsheds, instructional spaces and
composting bins.

4. As used in this section, “composting” means a process by which
compostable materials are inoculated with an effective microorganism and
placed in a sealed container for a period of time sufficient for fermentation to
occur under anaerobic conditions to promote acidification of the materials.

Sec. 7.3. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, and section 7.1 of
this act, unless the context otherwise requires, the words and terms defined in
NRS 278.0103 to 278.0195, inclusive, have the meanings ascribed to them in
those sections.

Sec. 7.4. NRS 278.024 is hereby amended to read as follows:

278.024 1. In the region of this State for which there has been created by
NRS 278.780 to 278.828, inclusive, a regional planning agency, the powers
conferred by NRS 278.010 to 278.630, inclusive, and section 7.1 of this act
upon any other authority are subordinate to the powers of such regional
planning agency, and may be exercised only to the extent that their exercise
does not conflict with any ordinance or plan adopted by such regional planning
agency. The powers conferred by NRS 278.010 to 278.630, inclusive, and
section 7.1 of this act shall be exercised whenever appropriate in furtherance
of a plan adopted by the regional planning agency.

2. Upon the adoption by a regional planning agency created by
NRS 278.780 to 278.828, inclusive, of any regional plan, any plan adopted
pursuant to NRS 278.010 to 278.630, inclusive, and section 7.1 of this act shall
cease to be effective as to the territory embraced in such regional plan. Each
planning commission and governing body whose previously adopted plan is
so affected shall, within 90 days after the effective date of the regional plan,
initiate any necessary procedure to revise its plan and any related zoning
ordinances which affect adjacent territory.

Sec. 7.5. NRS 278.025 is hereby amended to read as follows:

278.025 1. In any region of this State for which there has been created by
interstate compact a regional planning agency, the powers conferred by
NRS 278.010 to 278.630, inclusive, and section 7.1 of this act are subordinate
to the powers of such regional planning agency, and may be exercised only to
the extent that their exercise does not conflict with any ordinance or plan
adopted by such regional planning agency. The powers conferred by
NRS 278.010 to 278.630, inclusive, and section 7.1 of this act shall be
exercised whenever appropriate in furtherance of a plan adopted by the regional planning agency.

2. Upon the adoption by a regional planning agency created by interstate compact of any regional plan or interim plan, any plan adopted pursuant to NRS 278.010 to 278.630, inclusive, and section 7.1 of this act shall cease to be effective as to the territory embraced in such regional or interim plan. Each planning commission and governing body whose previously adopted plan is so affected shall, within 90 days after the effective date of the regional or interim plan, initiate any necessary procedure to revise its plan and any related zoning ordinances which affect adjacent territory.

Sec. 7.7. NRS 278.160 is hereby amended to read as follows:

278.160 1. Except as otherwise provided in this section and NRS 278.150 and 278.170, the master plan, with the accompanying charts, drawings, diagrams, schedules and reports, may include such of the following elements or portions thereof as are appropriate to the city, county or region, and as may be made the basis for the physical development thereof:

(a) A conservation element, which must include:

   (1) A conservation plan for the conservation, development and utilization of natural resources, including, without limitation, water and its hydraulic force, underground water, water supply, solar or wind energy, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The conservation plan must also cover the reclamation of land and waters, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan, prevention, control and correction of the erosion of soils through proper clearing, grading and landscaping, beaches and shores, and protection of watersheds. The conservation plan must also indicate the maximum tolerable level of air pollution.

   (2) A solid waste disposal plan showing general plans for the disposal of solid waste.

(b) A historic preservation element, which must include:

   (1) A historic neighborhood preservation plan which:

      (I) Must include, without limitation, a plan to inventory historic neighborhoods and a statement of goals and methods to encourage the preservation of historic neighborhoods.

      (II) May include, without limitation, the creation of a commission to monitor and promote the preservation of historic neighborhoods.

   (2) A historical properties preservation plan setting forth an inventory of significant historical, archaeological, paleontological and architectural properties as defined by a city, county or region, and a statement of methods to encourage the preservation of those properties.

(c) A housing element, which must include, without limitation:
(1) An inventory of housing conditions and needs, and plans and procedures for improving housing standards and providing adequate housing to individuals and families in the community, regardless of income level.

(2) An inventory of existing affordable housing in the community, including, without limitation, housing that is available to rent or own, housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the Federal Government or an agency of the Federal Government, and housing that is accessible to persons with disabilities.

(3) An analysis of projected growth and the demographic characteristics of the community.

(4) A determination of the present and prospective need for affordable housing in the community.

(5) An analysis of any impediments to the development of affordable housing and the development of policies to mitigate those impediments.

(6) An analysis of the characteristics of the land that is suitable for residential development. The analysis must include, without limitation:
   (I) A determination of whether the existing infrastructure is sufficient to sustain the current needs and projected growth of the community; and
   (II) An inventory of available parcels that are suitable for residential development and any zoning, environmental and other land-use planning restrictions that affect such parcels.

(7) An analysis of the needs and appropriate methods for the construction of affordable housing or the conversion or rehabilitation of existing housing to affordable housing.

(8) A plan for maintaining and developing affordable housing to meet the housing needs of the community for a period of at least 5 years.

(d) A land use element, which must include:
   (1) Provisions concerning community design, including standards and principles governing the subdivision of land and suggestive patterns for community design and development.

   (2) A land use plan, including an inventory and classification of types of natural land and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land. The land use plan:
      (I) Must, if applicable, address mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts. The land use plan must also, if applicable, address the coordination and compatibility of land uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.
      (II) May include a provision concerning the acquisition and use of land that is under federal management within the city, county or region, including, without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.
(3) In any county whose population is 700,000 or more, a rural neighborhoods preservation plan showing general plans to preserve the character and density of rural neighborhoods.

(e) A public facilities and services element, which must include:
   (1) An economic plan showing recommended schedules for the allocation and expenditure of public money to provide for the economical and timely execution of the various components of the plan.
   (2) A population plan setting forth an estimate of the total population which the natural resources of the city, county or region will support on a continuing basis without unreasonable impairment.
   (3) An aboveground utility plan that shows corridors designated for the construction of aboveground utilities and complies with the provisions of NRS 278.165.
   (4) Provisions concerning public buildings showing the locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.
   (5) Provisions concerning public services and facilities showing general plans for sewage, drainage and utilities, and rights-of-way, easements and facilities therein, including, without limitation, any utility projects required to be reported pursuant to NRS 278.145. If a public utility which provides electric service notifies the planning commission that a new transmission line or substation will be required to support the master plan, those facilities must be included in the master plan. The utility is not required to obtain an easement for any such transmission line as a prerequisite to the inclusion of the transmission line in the master plan.
   (6) A school facilities plan showing the general locations of current and future school facilities based upon information furnished by the appropriate county school district.

(f) A recreation and open space element, which must include a recreation plan showing a comprehensive system of recreation areas, including, without limitation, natural reservations, parks, parkways, trails, reserved riverbank strips, beaches, playgrounds and other recreation areas, including, when practicable, the locations and proposed development thereof.

(g) A safety element, which must include:
   (1) In any county whose population is 700,000 or more, a safety plan identifying potential types of natural and man-made hazards, including, without limitation, hazards from floods, landslides or fires, or resulting from the manufacture, storage, transfer or use of bulk quantities of hazardous materials. The safety plan may set forth policies for avoiding or minimizing the risks from those hazards.
   (2) A seismic safety plan consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking or to ground failures.

(h) A transportation element, which must include:
(1) A streets and highways plan showing the general locations and widths of a comprehensive system of major traffic thoroughfares and other traffic ways and of streets and the recommended treatment thereof, building line setbacks, and a system of naming or numbering streets and numbering houses, with recommendations concerning proposed changes.

(2) A transit plan showing a proposed multimodal system of transit lines, including mass transit, streetcar, motorcoach and trolley coach lines, paths for bicycles and pedestrians, satellite parking and related facilities.

(3) A transportation plan showing a comprehensive transportation system, including, without limitation, locations of rights-of-way, terminals, viaducts and grade separations. The transportation plan may also include port, harbor, aviation and related facilities.

(i) An urban agricultural element, which must include a plan to inventory any vacant lands owned by the city or county and blighted land in the city or county to determine whether such lands are suitable for urban farming and gardening.

(j) An urban composting element, which must include a plan to inventory any lands owned by the city or county to determine whether such lands are suitable for urban composting.

2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other elements as may in its judgment relate to the physical development of the city, county or region, and nothing contained in NRS 278.010 to 278.630, inclusive, and section 7.1 of this act prohibits the preparation and adoption of any such element as a part of the master plan.

Sec. 7.8. NRS 371.047 is hereby amended to read as follows:

371.047 1. A county may use the proceeds of the tax imposed pursuant to NRS 371.043 or 371.045, or of bonds, notes or other obligations incurred to which the proceeds of those taxes are pledged to finance a project related to the construction of a highway with limited access, to:

(a) Purchase residential real property which shares a boundary with a highway with limited access or a project related to the construction of a highway with limited access, and which is adversely affected by the highway. Not more than 1 percent of the proceeds of the tax or of any bonds to which the proceeds of the tax are pledged may be used for this purpose.

(b) Pay for the cost of moving persons whose primary residences are condemned for a right-of-way for a highway with limited access and who qualify for such payments. The board of county commissioners shall, by ordinance, establish the qualifications for receiving payments for the cost of moving pursuant to this paragraph.

2. A county may, in accordance with NRS 244.265 to 244.296, inclusive, and section 4.5 of this act, dispose of any residential real property purchased pursuant to this section, and may reserve and except easements, rights or interests related thereto, including, but not limited to:
(a) Abutter’s rights of light, view or air.
(b) Easements of access to and from abutting land.
(c) Covenants prohibiting the use of signs, structures or devices advertising activities not conducted, services not rendered or goods not produced or available on the real property.

3. Proceeds from the sale or lease of residential real property acquired pursuant to this section must be used for the purposes set forth in this section and in NRS 371.043 or 371.045, as applicable.

4. For the purposes of this section, residential real property is adversely affected by a highway with limited access if the construction or proposed use of the highway:
   (a) Constitutes a taking of all or any part of the property, or interest therein;
   (b) Lowers the value of the property; or
   (c) Constitutes a nuisance.

5. As used in this section:
   (a) “Highway with limited access” means a divided highway for through traffic with full control of access and with grade separations at intersections.
   (b) “Primary residence” means a dwelling, whether owned or rented by the occupant, which is the sole principal place of residence of that occupant.
   (c) “Residential real property” means a lot or parcel of not more than 1.5 acres upon which a single-family or multifamily dwelling is located.

Sec. 8. The amendatory provisions of sections 3, 4 and 6 of this act do not apply to any contract for the exclusive franchise to provide the services described in paragraph (c) of subsection 3 of NRS 244.187, as amended by section 3 of this act, or paragraph (c) of subsection 3 of NRS 268.081, as amended by section 6 of this act, that is awarded before October 1, 2021, unless the contract is amended, extended or renewed on or after October 1, 2021.

Senator Donate moved the adoption of the amendment.
Remarks by Senators Donate, Pickard and Ohrenschant.

Senator Donate:
(To be entered at a later date.)

Senator Pickard:
(To be entered at a later date.)

Senator Ohrenschant:
(To be entered at a later date.)

Amendment adopted.
Bill read third time.
Remarks by Senators Ohrenschant and Goicoechea.
SENATOR OHRENSCHALL:
(To be entered at a later date.)

SENATOR GOICOECHEA:
(To be entered at a later date.)

Roll call on Senate Bill No. 349:
YEAS—13.
NAYS—Buck, Goicoechea, Hammond, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—8.

Senate Bill No. 349 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 370.
Bill read third time.
Remarks by Senator Donate.
(To be entered at a later date.)

Roll call on Senate Bill No. 370:
YEAS—21.
NAYS—None.

Senate Bill No. 370 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 376.
Bill read third time.
The following amendment was proposed by the Committee on Health and Human Services:
Amendment No. 267.
SUMMARY—Revises provisions relating to child welfare. (BDR 38-503)
AN ACT relating to child welfare; requiring an agency which provides child welfare services to assign a certain disposition for each report concerning the possible abuse or neglect of a child received or referred to the agency; defining the types of dispositions for purposes of this requirement; deeming certain dispositions to be equivalent; imposing certain limitations on the disclosure of information relating to a report that received a disposition other than substantiated; and providing other matters properly relating thereto.
Legislative Counsel’s Digest:
Existing law requires an agency which provides child welfare services to determine, for each report concerning the possible abuse or neglect of a child received or referred to the agency: (1) whether an investigation is warranted; and (2) if so, whether the allegations concerning abuse or neglect contained in the report are substantiated or unsubstantiated. (NRS 432B.260, 432B.300) Existing law also requires an agency, upon completion of an investigation, to report the disposition to the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child. (NRS 432.100,
Sections 1.5 and 5.5 of this bill require an agency which provides child welfare services to assign one of the following dispositions to a report upon determining that an investigation is not warranted or upon the conclusion of an investigation: (1) substantiated; (2) unsubstantiated; (3) unable to locate or contract; and (4) administrative closure. Sections 1.5 and 5.5 also define each of these case dispositions for purposes of this requirement. Section 1.5 and 5.5 deem all dispositions other than substantiated to be equivalent. Section 4 of this bill prohibits the reporting of dispositions other than substantiated to the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child, and section 1 of this bill prohibits the release of information from the Central Registry regarding a report of child abuse or neglect that received a disposition other than substantiated, other than to an agency which provides child welfare services. Sections 2, 3, 5 and 6 of this bill make conforming changes relating to the requirement that an agency assign a disposition to a report pursuant to sections 1.5 and 5.5. Section 5.7 of this bill makes a conforming change to indicate the proper placement of section 5.5 in the Nevada Revised Statutes.

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

Section 1. NRS 432.120 is hereby amended to read as follows:

432.120 1. Information contained in the Central Registry must not be released unless the right of the applicant to the information is confirmed, the information concerning the report of abuse or neglect of the child or a violation of NRS 201.540, 201.560, 392.4633 or 394.366 has been reported pursuant to NRS 392.337 or 432B.310, as applicable, the released information discloses the disposition of the case and, if the information is being provided pursuant to subsection 3 of NRS 432.100, the person who is the subject of the background investigation provides written authorization for the release of the information.

2. The information contained in the Central Registry concerning cases in which a report of abuse or neglect of a child has been substantiated by an agency which provides child welfare services must be deleted from the Central Registry not later than 10 years after the child who is the subject of the report reaches the age of 18 years.

3. The Division shall not release information from the Central Registry regarding a report of child abuse or neglect made pursuant to NRS 392.303 or 432B.220 that received a disposition other than substantiated to any person or entity except for an agency which provides child welfare services.

4. The Division shall adopt regulations to carry out the provisions of this section.

Section 1.5. Chapter 432B of NRS is hereby amended by adding thereto a new section to read as follows:
1. An agency which provides child welfare services shall, upon determining that an investigation is not warranted or upon the conclusion of an investigation of a report concerning the possible abuse or neglect of a child, assign one of the following dispositions to the report:

(a) Substantiated.
(b) Unsubstantiated.
(c) Unable to locate or contact.
(d) Administrative closure.

2. A disposition of unable to locate or contact or administrative closure shall be deemed to be equivalent to a disposition of unsubstantiated for all purposes.

3. As used in this section:

(a) “Administrative closure” means that the agency which provides child welfare services has determined, by a preponderance of the evidence, without conducting an investigation, that the alleged abuse or neglect did not occur, that it lacks the authority to investigate a report concerning the possible abuse or neglect of a child.

(b) “Substantiated” means that the agency which provides child welfare services has determined by a preponderance of the evidence that the alleged abuse or neglect occurred and was committed by the person named in the report as allegedly causing the abuse or neglect.

(c) “Unable to locate or contact” means that the agency which provides child welfare services was unable to complete an investigation and therefore cannot make a determination regarding whether the report concerning abuse or neglect of a child is substantiated or unsubstantiated, of a report concerning the possible abuse or neglect of a child because:

1) The agency which provides child welfare services lacks the information necessary to complete the investigation, including, without limitation, the current address of the child or his or her parent or legal guardian;

2) The parent or guardian of the child was contacted and then relocated and can no longer be located to complete the investigation; or

3) The agency which provides child welfare services located the parent or guardian of the child but, after making persistent efforts, is unable to make contact with the parent or guardian of the child to complete the investigation.

(d) “Unable to determine” means that the agency has determined that some credible evidence that abuse or neglect occurred exists, but not enough to support substantiation.

(e) “Unsubstantiated” means that the agency which provides child welfare services has determined by a preponderance of the evidence that the alleged abuse or neglect did not occur or was not committed by the person named in the report as allegedly causing the abuse or neglect.

Sec. 2. NRS 432B.290 is hereby amended to read as follows:
1. Information maintained by an agency which provides child welfare services must be maintained by the agency which provides child welfare services as required by federal law as a condition of the allocation of federal money to this State.

2. Except as otherwise provided in this section and NRS 432B.165, 432B.175 and 432B.513, information maintained by an agency which provides child welfare services may, at the discretion of the agency which provides child welfare services, be made available only to:
   (a) A physician, if the physician has before him or her a child who the physician has reasonable cause to believe has been abused or neglected;
   (b) A person authorized to place a child in protective custody, if the person has before him or her a child who the person has reasonable cause to believe has been abused or neglected and the person requires the information to determine whether to place the child in protective custody;
   (c) An agency, including, without limitation, an agency in another jurisdiction, responsible for or authorized to undertake the care, treatment or supervision of:
      (1) The child; or
      (2) The person responsible for the welfare of the child;
   (d) A district attorney or other law enforcement officer who requires the information in connection with an investigation or prosecution of the abuse or neglect of a child;
   (e) Except as otherwise provided in paragraph (f), a court other than a juvenile court, for in camera inspection only, unless the court determines that public disclosure of the information is necessary for the determination of an issue before it;
   (f) A court, as defined in NRS 159A.015, to determine whether a guardian or successor guardian of a child should be appointed pursuant to chapter 159A of NRS or NRS 432B.466 to 432B.468, inclusive;
   (g) A person engaged in bona fide research or an audit, but information identifying the subjects of a report must not be made available to the person;
   (h) The attorney and the guardian ad litem of the child, if the information is reasonably necessary to promote the safety, permanency and well-being of the child;
   (i) A person who files or intends to file a petition for the appointment of a guardian or successor guardian of a child pursuant to chapter 159A of NRS or NRS 432B.466 to 432B.468, inclusive, if the identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential and the information is reasonably necessary to promote the safety, permanency and well-being of the child;
   (j) The proposed guardian or proposed successor guardian of a child over whom a guardianship is sought pursuant to chapter 159A of NRS or NRS 432B.466 to 432B.468, inclusive, if the identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept
confidential and the information is reasonably necessary to promote the safety, permanency and well-being of the child;
(k) A grand jury upon its determination that access to these records and the information is necessary in the conduct of its official business;
(l) A federal, state or local governmental entity, or an agency of such an entity, or a juvenile court, that needs access to the information to carry out its legal responsibilities to protect children from abuse and neglect;
(m) A person or an organization that has entered into a written agreement with an agency which provides child welfare services to provide assessments or services and that has been trained to make such assessments or provide such services;
(n) A team organized pursuant to NRS 432B.350 for the protection of a child;
(o) A team organized pursuant to NRS 432B.405 to review the death of a child;
(p) A parent or legal guardian of the child and an attorney of a parent or guardian of the child, including, without limitation, the parent or guardian of a child over whom a guardianship is sought pursuant to chapter 159A of NRS or NRS 432B.466 to 432B.468, inclusive, if the identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential and the information is reasonably necessary to promote the safety, permanency and well-being of the child and is limited to information concerning that parent or guardian;
(q) The child over whom a guardianship is sought pursuant to chapter 159A of NRS or NRS 432B.466 to 432B.468, inclusive, if:
(1) The child is 14 years of age or older; and
(2) The identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential and the information is reasonably necessary to promote the safety, permanency and well-being of the child;
(r) The persons or agent of the persons who are the subject of a report, if the information is reasonably necessary to promote the safety, permanency and well-being of the child and is limited to information concerning those persons;
(s) An agency that is authorized by law to license foster homes or facilities for children or to investigate persons applying for approval to adopt a child, if the agency has before it an application for that license or is investigating an applicant to adopt a child;
(t) Upon written consent of the parent, any officer of this State or a city or county thereof or Legislator authorized by the agency or department having jurisdiction or by the Legislature, acting within its jurisdiction, to investigate the activities or programs of an agency which provides child welfare services if:
(1) The identity of the person making the report is kept confidential; and
(2) The officer, Legislator or a member of the family of the officer or Legislator is not the person alleged to have committed the abuse or neglect;

(u) The Division of Parole and Probation of the Department of Public Safety for use pursuant to NRS 176.135 in making a presentence investigation and report to the district court or pursuant to NRS 176.151 in making a general investigation and report;

(v) Any person who is required pursuant to NRS 432B.220 to make a report to an agency which provides child welfare services or to a law enforcement agency;

(w) A local advisory board to expedite proceedings for the placement of children created pursuant to NRS 432B.604;

(x) The panel established pursuant to NRS 432B.396 to evaluate agencies which provide child welfare services;

(y) An employer in accordance with subsection 3 of NRS 432.100;

(z) A team organized or sponsored pursuant to NRS 217.475 or 228.495 to review the death of the victim of a crime that constitutes domestic violence;

(aa) The Committee on Domestic Violence appointed pursuant to NRS 228.470; or

(bb) The Committee to Review Suicide Fatalities created by NRS 439.5104.

3. An agency investigating a report of the abuse or neglect of a child shall, upon request, provide to a person named in the report as allegedly causing the abuse or neglect of the child:

(a) A copy of:

(1) Any statement made in writing to an investigator for the agency by the person named in the report as allegedly causing the abuse or neglect of the child; or

(2) Any recording made by the agency of any statement made orally to an investigator for the agency by the person named in the report as allegedly causing the abuse or neglect of the child; or

(b) A written summary of the allegations made against the person who is named in the report as allegedly causing the abuse or neglect of the child. The summary must not identify the person responsible for reporting the alleged abuse or neglect or any collateral sources and reporting parties.

4. Except as otherwise provided by subsection 6, before releasing any information maintained by an agency which provides child welfare services pursuant to this section, an agency which provides child welfare services shall take whatever precautions it determines are reasonably necessary to protect the identity and safety of any person who reports child abuse or neglect and to protect any other person if the agency which provides child welfare services reasonably believes that disclosure of the information would cause a specific and material harm to an investigation of the alleged abuse or neglect of a child or the life or safety of any person.
5. The provisions of this section must not be construed to require an agency which provides child welfare services to disclose information maintained by the agency which provides child welfare services if, after consultation with the attorney who represents the agency, the agency determines that such disclosure would cause a specific and material harm to a criminal investigation.

6. A person who is the subject of [an unsubstantiated] a report of child abuse or neglect made pursuant to this chapter that is assigned a disposition other than substantiated pursuant to section 1.5 of this act and who believes that the report was made in bad faith or with malicious intent may petition a district court to order the agency which provides child welfare services to release information maintained by the agency which provides child welfare services. The petition must specifically set forth the reasons supporting the belief that the report was made in bad faith or with malicious intent. The petitioner shall provide notice to the agency which provides child welfare services so that the agency may participate in the action through its counsel. The district court shall review the information which the petitioner requests to be released and the petitioner shall be allowed to present evidence in support of the petition. If the court determines that there is a reasonable question of fact as to whether the report was made in bad faith or with malicious intent and that the disclosure of the identity of the person who made the report would not be likely to endanger the life or safety of the person who made the report, the court shall provide a copy of the information to the petitioner and the original information is subject to discovery in a subsequent civil action regarding the making of the report.

7. If an agency which provides child welfare services receives any information that is deemed confidential by law, the agency which provides child welfare services shall maintain the confidentiality of the information as prescribed by applicable law.

8. Pursuant to this section, a person may authorize the release of information maintained by an agency which provides child welfare services about himself or herself, but may not waive the confidentiality of such information concerning any other person.

9. An agency which provides child welfare services may provide a summary of the outcome of an investigation of the alleged abuse or neglect of a child to the person who reported the suspected abuse or neglect.

10. Except as otherwise provided in this subsection, any person who is provided with information maintained by an agency which provides child welfare services and who further disseminates the information or makes the information public is guilty of a gross misdemeanor. This subsection does not apply to:

   (a) A district attorney or other law enforcement officer who uses the information solely for the purpose of initiating legal proceedings;
(b) An employee of the Division of Parole and Probation of the Department of Public Safety making a presentence investigation and report to the district court pursuant to NRS 176.135 or making a general investigation and report pursuant to NRS 176.151; or

(c) An employee of a juvenile justice agency who provides the information to the juvenile court.

11. An agency which provides child welfare services may charge a fee for processing costs reasonably necessary to prepare information maintained by the agency which provides child welfare services for release pursuant to this section.

12. An agency which provides child welfare services shall adopt rules, policies or regulations to carry out the provisions of this section.

13. As used in this section, “juvenile justice agency” means the Youth Parole Bureau or a director of juvenile services.

Sec. 3. NRS 432B.300 is hereby amended to read as follows:

432B.300 If an agency which provides child welfare services determines that an investigation of a report concerning the possible abuse or neglect of a child is warranted pursuant to NRS 432B.260, the agency shall determine, without limitation:

1. The composition of the family, household or facility, including the name, address, age, sex and race of each child named in the report, any siblings or other children in the same place or under the care of the same person, the persons responsible for the children’s welfare and any other adult living or working in the same household or facility;

2. Whether there is reasonable cause to believe any child is abused or neglected or threatened with abuse or neglect, the nature and extent of existing or previous injuries, abuse or neglect and any evidence thereof, and the person apparently responsible;

3. Whether there is reasonable cause to believe that a child has suffered a fatality as a result of abuse or neglect regardless of whether or not there are any siblings of the child or other children who are residing in the same household as the child who is believed to have suffered a fatality as a result of abuse or neglect;

4. If there is reasonable cause to believe that a child is abused or neglected, the immediate and long-term risk to the child if the child remains in the same environment; and

5. The treatment and services which appear necessary to help prevent further abuse or neglect and to improve the environment of the child and the ability of the person responsible for the child’s welfare to care adequately for the child. and

6. Whether the report concerning the possible abuse or neglect of a child is substantiated or unsubstantiated.

Sec. 4. NRS 432B.310 is hereby amended to read as follows:
432B.310 1. Except as otherwise provided in subsection 6 of NRS 432B.260, the agency investigating a report of abuse or neglect of a child shall, upon completing the investigation, report to the Central Registry:

(a) Identifying and demographic information on the child alleged to be abused or neglected, the parents of the child, any other person responsible for the welfare of the child and the person allegedly responsible for the abuse or neglect;

(b) The facts of the alleged abuse or neglect, including the date and type of alleged abuse or neglect, the manner in which the abuse was inflicted, the severity of the injuries and, if applicable, any information concerning the death of the child; and

(c) If the report was assigned a disposition of substantiated, the fact of that disposition.

The agency shall not report to the Central Registry a disposition other than substantiated.

2. An agency which provides child welfare services shall not report to the Central Registry any information concerning a child identified as being affected by a fetal alcohol spectrum disorder or prenatal substance use disorder or as having withdrawal symptoms resulting from prenatal substance exposure unless the agency determines that a person has abused or neglected the child after the child was born.

Sec. 5. NRS 432B.315 is hereby amended to read as follows:

432B.315 If an agency which provides child welfare services determines pursuant to NRS 432B.220 that a report made pursuant to NRS 432B.220, is substantiated, the agency shall provide written notification to the person responsible for the child’s welfare who is named in the report as allegedly causing the abuse or neglect of the child which includes statements indicating that:

1. The report which was made against the person has been substantiated and the agency which provides child welfare services intends to place the person’s name in the Central Registry pursuant to NRS 432B.310; and

2. The person may request an administrative appeal of the substantiation of the report and the agency’s intention to place the person’s name in the Central Registry by submitting a written request to the agency which provides child welfare services within the time required pursuant to NRS 432B.317.

Sec. 5.5. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An agency which provides child welfare services shall, upon determining that an investigation is not warranted or upon the conclusion of an investigation of a report concerning the possible abuse or neglect of a child, assign one of the following dispositions to the report:

(a) Substantiated.

(b) Unsubstantiated.

(c) Unable to locate or contact.
(d) *Administrative closure.*

2. A disposition of unable to locate or contact or administrative closure shall be deemed to be equivalent to a disposition of unsubstantiated for all purposes.

3. As used in this section:
   (a) “Administrative closure” means that the agency which provides child welfare services has determined that it lacks the authority to investigate a report concerning the possible abuse or neglect of a child.
   
   (b) “Substantiated” means that the agency which provides child welfare services has determined by a preponderance of the evidence that the alleged abuse or neglect occurred and was committed by the person named in the report as allegedly causing the abuse or neglect.
   
   (c) “Unable to locate or contact” means that the agency which provides child welfare services was unable to complete an investigation of a report concerning the possible abuse or neglect of a child because:
      (1) The agency which provides child welfare services lacks the information necessary to complete the investigation, including, without limitation, the current address of the child or his or her parent or legal guardian;
      (2) The parent or guardian of the child was contacted and then relocated and can no longer be located to complete the investigation; or
      (3) The agency which provides child welfare services located the parent or guardian of the child but, after making persistent efforts, is unable to make contact with the parent or guardian of the child to complete the investigation.
   
   (d) “Unsubstantiated” means that the agency which provides child welfare services has determined by a preponderance of the evidence that the alleged abuse or neglect did not occur or was not committed by the person named in the report as allegedly causing the abuse or neglect.

Sec. 5.7. NRS 392.275 is hereby amended to read as follows:

392.275 As used in NRS 392.275 to 392.365, inclusive, and section 5.5 of this act, unless the context otherwise requires, the words and terms defined in NRS 392.281 to 392.295, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 392.337 is hereby amended to read as follows:

392.337 1. An agency which provides child welfare services investigating a report made pursuant to NRS 392.303 shall, upon completing the investigation, [determine whether the report is substantiated or unsubstantiated and] notify the parent or guardian of the child who is the subject of the report of [that determination.] the disposition assigned to the report pursuant to section 5.5 of this act.

2. If the report is substantiated, the agency shall:
   (a) Forward the report to the Department of Education, the board of trustees of the school district in which the school is located or the governing body of the charter school or private school, as applicable, the appropriate local law
enforcement agency within the county and the district attorney’s office within the county for further investigation.

(b) Provide written notification to the person who is named in the report as allegedly causing the abuse or neglect of the child or violating NRS 201.540, 201.560, 392.4633 or 394.366 which includes statements indicating that:

(1) The report made against the person has been substantiated and the agency which provides child welfare services intends to place the person’s name in the Central Registry pursuant to paragraph (a); and

(2) The person may request an administrative appeal of the substantiation of the report and the agency’s intention to place the person’s name in the Central Registry by submitting a written request to the agency which provides child welfare services within the time required by NRS 392.345.

(c) After the conclusion of any administrative appeal pursuant to NRS 392.345 or the expiration of the time period prescribed by that section for requesting an administrative appeal, whichever is later, report to the Central Registry:

(1) Identifying and demographic information on the child who is the subject of the report, the parents of the child, any other person responsible for the welfare of the child and the person allegedly responsible for the conduct alleged in the report;

(2) The facts of the alleged conduct, including the date and type of alleged conduct, a description of the alleged conduct, the severity of any injuries and, if applicable, any information concerning the death of the child; and

(3) The disposition of the case.

(d) Provide to the parent or guardian of the child who is the subject of the report:

(1) A written summary of the outcome of the investigation of the allegations in the report which must not identify the person who made the report, any child witnesses to the allegations in the report or any collateral sources and reporting parties; and

(2) A summary of any disciplinary action taken against the person who is named in the report as allegedly causing the abuse or neglect of the child or violating NRS 201.540, 201.560, 392.4633 or 394.366 which is known by the agency, including, without limitation, whether the name of such person will be placed in the Central Registry.

3. A parent or guardian who receives information pursuant to paragraph (d) of subsection 2 may disclose the information to an attorney for the child who is the subject of the report or the parent or guardian of the child.

Sec. 7. Notwithstanding the provisions of NRS 218D.430 and 218D.435, a committee, other than the Assembly Standing Committee on Ways and Means and the Senate Standing Committee on Finance, may vote on this act before the expiration of the period prescribed for the return of a fiscal note in
NRS 218D.475. This section applies retroactively from and after March 22, 2021.

Sec. 8. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 7, inclusive, of this act become effective:
   (a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory tasks that are necessary to carry out the provisions of this act; and
   (b) On October 1, 2021, for all other purposes.

Senator Ratti moved the adoption of the amendment.

Remarks by Senator Ratti.
(To be entered at a later date.)

Amendment adopted.
Bill read third time.
Remarks by Senators Ohrenschall and Seevers Gansert.

SENATOR OHRENSCHALL:
(To be entered at a later date.)

SENATOR SEEVERS GANSERT:
(To be entered at a later date.)

SENATOR OHRENSCHALL:
(To be entered at a later date.)

SENATOR SEEVERS GANSERT:
(To be entered at a later date.)

SENATOR OHRENSCHALL:
(To be entered at a later date.)

Roll call on Senate Bill No. 376:
YEAS—21.
NAYS—None.

Senate Bill No. 376 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 379.
Bill read third time.
Remarks by Senators Hardy and Hansen.

SENATOR HARDY:
(To be entered at a later date.)

SENATOR HANSEN:
(To be entered at a later date.)

Roll call on Senate Bill No. 379:
YEAS—20.
NAYS—Hansen.
Senate Bill No. 379 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 380.

Bill read third time.

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

Amendment No. 426.

SUMMARY—Revises provisions governing the reporting of data concerning the prices of prescription drugs. (BDR 40-445)

AN ACT relating to prescription drugs; requiring certain entities that report information expanding the information that is reported under the program for tracking and reporting of information concerning the pricing of prescription drugs; [to register with the Department of Health and Human Services and pay a registration fee; expanding the information that is reported]; requiring additional entities wholesalers to make a report; requiring certain reporting entities to affirm the accuracy of the information in the reports; authorizing the Department to take certain measures to enforce requirements to report information; revising requirements concerning the report of the Department of Health and Human Services on the pricing of prescription drugs; [increasing the amount] revising the authorized uses of certain administrative penalties; [authorizing the Department to impose an administrative penalty against an entity that fails to register as required]; excluding certain information from protection as a trade secret; requiring an individual health insurer to publish notice if certain drugs are removed from its formulary; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Department of Health and Human Services to compile: (1) a list of prescription drugs that the Department determines to be essential for treating diabetes and asthma in this State; and (2) a list of such prescription drugs that have been subject to a significant price increase. (NRS 439B.630) Sections 1.3-4 and 9.5 of this bill define certain terms relating to prescription drugs. Section 10 of this bill removes the limitation that drugs included on the list of prescription drugs that have undergone a significant price increase must also be included on the list of essential diabetes and asthma drugs, thereby requiring the list to include all prescription drugs that have been subject to a significant price increase.

Existing law requires the manufacturer of a prescription drug included on the list of essential prescription drugs to submit to the Department an annual report that contains certain information concerning the cost of the drug. (NRS 439B.635) Existing law also requires the manufacturer of a drug included on the list of prescription drugs that have undergone a significant price increase to submit to the Department a report concerning the reasons for the cost increase. (NRS 439B.640) Section 11 of this bill additionally requires
Existing law requires a pharmacy benefit manager to report certain information concerning prescription drugs to the Department. (NRS 439B.645) Section 13 of this bill revises and expands the information that a pharmacy benefit manager is required to report. Section 6 of this bill requires a wholesaler of prescription drugs to report to the Department certain information concerning the drugs on the list of [essential diabetes and asthma drugs and the list of drugs that have undergone a significant price increase.] Section 7 of this bill requires third parties that provide coverage of prescription drugs in this State and are regulated under state law to report to the Department certain information concerning spending by the third party on prescription drugs with a wholesale acquisition cost that exceeds $40 for a course of therapy. Section 16 of this bill requires the Department to adopt regulations establishing the form and manner in which wholesalers [and third parties must] are required to report that information. Sections 6 [and 11-13] of this bill require a report submitted by a manufacturer, pharmacy benefit manager, wholesaler or third party to be accompanied by statement signed under penalty of perjury affirming the accuracy of the information in the report.

Section 5 of this bill requires each manufacturer, wholesaler, pharmacy benefit manager or third party that is required to make a report to also register annually with the Department. Section 16 requires the Department to impose a fee for such registration in an amount calculated to cover the cost of the program for the reporting of information concerning the prices of prescription drugs, and section 17 of this bill eliminates provisions of existing law that require the suspension of components of the program and duties of the Department concerning the program if sufficient funds are not available. Section 18 of this bill authorizes the Department to impose an administrative penalty against a manufacturer, pharmacy benefit manager, wholesaler or third party that fails to register.

Existing law provides that pharmacy benefit managers are not required to report information relating to prescription drug coverage that is a part of a plan regulated under the federal Employee Retirement Income Security Act, but that such a plan may require a pharmacy benefit manager to report that information by contract. (NRS 439B.645) In Rutledge v. Pharm. Care Mgmt. Ass’n, the United States Supreme Court held that states are authorized to impose general requirements governing pharmacy benefit managers on pharmacy benefit managers that manage such coverage. (141 S. Ct. 474,
Section 13 removes the exemption for such coverage from requirements for the reporting of information by pharmacy benefit managers, thereby requiring a pharmacy benefit manager to report information relating to such coverage regardless of whether they are required to do so by contract.

Existing law requires the Department to analyze the information reported concerning the prices of prescription drugs and compile a report concerning the reasons for and effect of the pricing. (NRS 439B.650) Section 14 of this bill: (1) revises the information that must be included in that report; and (2) requires the Department to present the findings in the report at a public hearing.

Existing law authorizes the Department to impose an administrative penalty against a manufacturer, pharmacy benefit manager or nonprofit organization that fails to report required information. (NRS 439B.695) Section 18 of this bill: (1) authorizes the imposition of an administrative penalty against a wholesaler that fails to report the information required by section 6; (2) requires the Department to present the findings in the report at a public hearing; and (2) revises the manner in which the Department is authorized to use the money collected through those penalties.

Existing law excludes information reported by manufacturers, pharmaceutical sales representatives and pharmacy benefit managers from protection under trade secret law in this State. (NRS 600A.030) Section 19 of this bill similarly excludes information reported by wholesalers from such protection.

Existing law requires an insurer that offers or issues a policy of individual health insurance to publish on an Internet website that is operated by the insurer and is accessible to the public or include in any enrollment materials distributed by the insurer a notice of all prescription drugs that: (1) are included on the most recent list of essential diabetes and asthma drugs compiled by the Department; and (2) have been removed or will be removed from the formulary during the current plan year or the next plan year. (NRS 689.405) Section 19.5 of this bill revises that reference to instead refer to the list of prescription drugs with a wholesale acquisition cost that exceeds $40 for a course of therapy.

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

Section 1. Chapter 439B of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 to 8, inclusive, of this act.

Sec. 1.3. “National Drug Code” means the numerical code assigned to a prescription drug by the United States Food and Drug Administration.
Sec. 1.6. 1. “Rebate” means a discount or concession that affects the price of a prescription drug which is provided by the manufacturer of the drug to:
   (a) A third party;
   (b) A pharmacy benefit manager after the pharmacy benefit manager has processed a claim from a pharmacy, an institutional pharmacy, as defined in NRS 639.0085, or a pharmacist; or
   (c) A wholesaler.
2. The term does not include a bona fide service fee, as defined in 42 C.F.R. § 447.502.

Sec. 2. “Third party” means:
1. An insurer, as that term is defined in NRS 679B.540;
2. A health benefit plan, as that term is defined in NRS 687B.470, for employees which provides coverage for prescription drugs;
3. The Public Employees’ Benefits Program established pursuant to subsection 1 of NRS 287.043;
4. A governing body of a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency that provides health coverage to employees through a self-insurance reserve fund pursuant to NRS 287.010;
5. The Department, with regard to Medicaid and the Children’s Health Insurance Program; and
6. Any other insurer or organization providing coverage of prescription drugs in accordance with state or federal law.

Sec. 3. “Unit” has the meaning ascribed to it in 42 C.F.R. § 414.802.

Sec. 3.5. “WAC unit” means the lowest identifiable quantity of a prescription drug that is dispensed, excluding any diluent and without reference to volume measurements for liquids.

Sec. 4. “Wholesaler” has the meaning ascribed to it in NRS 639.016.

Sec. 5. 1. Except as otherwise provided in subsection 2, on or before February 1 of each year, each manufacturer or wholesaler that sells prescription drugs for distribution in this State, each pharmacy benefit manager that manages prescription drug coverage for covered persons in this State and each third party that provides coverage of prescription drugs to persons in this State shall register with the Department.
2. The requirements of this section do not apply to:
   (a) A third party that issues only plans that are subject to the Employee Retirement Income Security Act of 1974 in this State; or
   (b) A third party that is a governmental entity. (Deleted by amendment.)

Sec. 6. 1. On or before April 1 of each year, a wholesaler that sells a prescription drug that appears on the most current list compiled by the Department pursuant to subsection 1 of NRS 439B.630 for use in this
State shall prepare and submit to the Department, in the form prescribed by the Department:

(a) A report which includes the information prescribed by subsection 2; and
(b) A statement signed by the person responsible for compiling the report affirming, under penalty of perjury, the accuracy of the information in the report.

2. The report submitted pursuant to paragraph (a) of subsection 1 must include, for each drug described in subsection 1:

(a) The current wholesale acquisition cost of the drug and the minimum and maximum wholesale acquisition cost of the drug during the immediately preceding calendar year;
(b) The total volume in WAC units of the drug sold by the wholesaler for use in this State during the immediately preceding calendar year;
(c) The number of units of the drug sold by the wholesaler during the immediately preceding calendar year for use in this State by:
   (1) Recipients of Medicare;
   (2) Recipients of Medicaid;
   (3) Persons covered by third parties that are governmental entities which are not described in subparagraph (1) or (2);
   (4) Persons covered by commercial insurers; and
   (5) Persons covered by third parties other than those described in subparagraphs (1) to (4), inclusive;
(d) The total number of units of the drug projected to be sold by the wholesaler for use in this State during the current calendar year;
(e) The number of units of the drug projected to be sold by the wholesaler for use in this State in a category listed in paragraph (c) during the current calendar year;
(f) The aggregate amount of rebates, discounts and other price concessions negotiated directly with the manufacturer of the drug for sales of the drug for use in this State during the immediately preceding calendar year and the amount of those rebates, discounts and other price concessions which applied to sales of the drug for use by persons in each category listed in paragraph (c);
(g) The total amount of rebates, discounts and other price concessions negotiated directly with the manufacturer of the drug that are projected to apply to sales of the drug for use in this State during the current calendar year and the amount of those rebates, discounts and other price concessions which are projected to apply to sales of the drug for use by persons in each category listed in paragraph (c);
(h) The aggregate amount of discounts, dispensing fees and other fees rebates negotiated with pharmacies, pharmacy benefit managers and other entities that administer pharmacy benefits for sales of the drug for use in this State during the immediately preceding calendar year and the
amount of those discounts, dispensing fees and other fees which applied to
sales of the drug for use by persons in each category listed in paragraph (c);

(i) The total amount of all discounts, dispensing fees and other fees
negotiated with pharmacies, pharmacy benefit managers and other entities
that administer pharmacy benefits which are projected to apply to sales of the
drug for use in this State during the current calendar year and the amount of
those discounts, dispensing fees and other fees which are projected to apply to
sales of the drug for use by persons in each category listed in paragraph (c);

(ii) The total net income that the wholesaler received during the immediately
preceding calendar year for sales of the drug in this State;

(iii) The net income that the wholesaler received during the immediately
preceding calendar year for sales of the drug for use in this State by persons
in each category listed in paragraph (c);

(iv) The total net income that the wholesaler projects to receive during the
current calendar year for sales of the drug in this State;

(v) The net income that the wholesaler projects to receive during the
current calendar year for sales of the drug for use in this State by persons
in each category listed in paragraph (c); and

(vi) Any other information prescribed by regulation of the Department.

Sec. 7.  (1) Except as otherwise provided in subsection 2, on or before
April 1 of each year, a third party that provides coverage of prescription drugs
to persons in this State shall submit to the Department:

(a) A report which includes the information prescribed by subsection 2; and

(b) A statement signed by the person responsible for compiling the report
under penalty of perjury affirming the accuracy of the information in the
report.

2. The report submitted pursuant to paragraph (a) of subsection 1 must
include, for the immediately preceding year:

(a) The 25 prescription drugs for which the third party spent the largest
total amount in this State, before any deductible, copayment, coinsurance or
other cost-sharing paid by covered persons;

(b) The 25 prescription drugs for which the third party spent the largest
amount in this State per covered person who used the drug, before any
deductible, copayment, coinsurance or other cost-sharing paid by covered
persons;

(c) The 25 prescription drugs for which total spending by the third party in
this State, before any deductible, copayment, coinsurance or other cost-
sharing paid by covered persons, increased by the largest amount;

(d) The 25 prescription drugs for which spending by the third party in this
State per covered person who used the drug, before any deductible,
copayment, coinsurance or other cost-sharing paid by covered persons,
increased by the largest amount;
(e) The total amount spent by the third party in this State on prescription drugs, before any deductible, copayment, coinsurance or other cost-sharing paid by covered persons;

(f) The total amount spent by the third party in this State on each prescription drug included on a list compiled pursuant to paragraphs (a) to (d), inclusive, before any deductible, copayment, coinsurance or other cost-sharing paid by covered persons;

(g) The amount per covered person spent by the third party in this State on prescription drugs;

(h) The amount per covered person spent by the third party in this State on each prescription drug included on a list compiled pursuant to paragraphs (a) to (d), inclusive;

(i) The amount of margins and fees paid directly by the third party to pharmacy benefit managers during the immediately preceding calendar year, in total and for each drug included on a list compiled pursuant to paragraphs (a) to (d), inclusive;

(j) The amount of other retail discounts, price concessions and fees paid by the third party during the immediately preceding calendar year, in total and for each drug included on a list compiled pursuant to paragraphs (a) to (d), inclusive; and

(k) Any other information prescribed by regulation of the Department.

3. The requirements of this section do not apply to the coverage of prescription drugs under a plan that is subject to the Employee Retirement Income Security Act of 1974 or any information relating to such coverage. The issuer of such a plan may elect to report the information prescribed by subsection 2.

4. As used in this section, “covered person” means a policyholder, subscriber, enrollee or other person covered by a third party. (Deleted by amendment.)

Sec. 8. The Department may:

1. Audit the records of a manufacturer, pharmacy benefit manager, wholesaler, third party or nonprofit organization to ensure compliance with the provisions of NRS 439B.600 to 439B.695, inclusive, and sections 2 to 8, inclusive, of this act, and ensure the accuracy of information reported pursuant to those sections. A manufacturer, pharmacy benefit manager, wholesaler, third party or nonprofit organization whose records are audited pursuant to this subsection is responsible for the costs of the audit.

2. Hold public hearings relating to compliance with the provisions of NRS 439B.600 to 439B.695, inclusive, and sections 2 to 8, inclusive, of this act, and may subpoena witnesses, financial papers, records and documents in connection therewith. An order requiring the filing of information or a subpoena issued pursuant to this subsection must state the purpose for which it is issued. The Department may administer oaths in any hearing.
3. Upon determining that a manufacturer, pharmacy benefit manager, wholesaler, third party or nonprofit organization has failed to comply with the provisions of NRS 439B.600 to 439B.695, inclusive, and sections 2 to 8, inclusive, of this act, or has included inaccurate information in a report made pursuant to those sections, require the manufacturer, pharmacy benefit manager, wholesaler, third party or nonprofit organization to submit a plan of correction to the Department for approval. (Deleted by amendment.) 

Sec. 9. NRS 439B.600 is hereby amended to read as follows:
439B.600 As used in NRS 439B.600 to 439B.695, inclusive, and sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 439B.605 to 439B.620, inclusive, and sections 2, 3 and 4, inclusive, of this act, have the meanings ascribed to them in those sections.

Sec. 9.5. NRS 439B.620 is hereby amended to read as follows:
439B.620 “Wholesale acquisition cost” means the manufacturer’s list price for a prescription drug to wholesalers or direct purchasers in the United States, not including any discounts, rebates or reductions in price, as reported in wholesale price guides or other publications of drug pricing data, with a unique National Drug Code.

Sec. 10. NRS 439B.630 is hereby amended to read as follows:
439B.630 On or before February 1 of each year, the Department shall compile:

1. A list of prescription drugs that the Department determines to be essential for treating asthma and diabetes in this State and the wholesale acquisition cost of each such drug on the list. The list must include, without limitation, all forms of insulin and biguanides marketed for sale in this State, with a wholesale acquisition cost that exceeds $40 for a course of therapy. As used in this subsection, “course of therapy” means:
   (a) Except as otherwise provided in paragraph (b), the recommended daily dosage of a prescription drug, as set forth on the label for the prescription drug approved by the United States Food and Drug Administration, for 30 days.
   (b) If the normal course of treatment using a prescription drug is less than 30 days, the recommended daily dosage of a prescription drug, as set forth on the label for the prescription drug approved by the United States Food and Drug Administration, for the duration of the recommended course of treatment.

2. A list of prescription drugs described in subsection 1 that have been subject to an increase in the wholesale acquisition cost of a percentage equal to or greater than:
   (a) [The percentage increase in the Consumer Price Index, Medical Care Prescription Drugs Component] Ten percent during the immediately preceding calendar year; or
(b) [Twice the percentage increase in the Consumer Price Index, Medical Care, Prescription Drugs Component] Twenty percent during the immediately preceding 2 calendar years.

Sec. 11. NRS 439B.635 is hereby amended to read as follows:

439B.635 1. On or before April 1 of each year, the manufacturer of a prescription drug that appears on the most current list compiled by the Department pursuant to subsection 1 of NRS 439B.630 shall prepare and submit to the Department, in the form prescribed by the Department:

(a) A report which includes the information prescribed by subsection 2; and

(b) A statement signed by the person responsible for compiling the report under penalty of perjury affirming the accuracy of the information in the report.

2. The report submitted pursuant to paragraph (a) of subsection 1 must include:

1. for each drug described in subsection 1:
   (a) The National Drug Code for the drug, reported in numeric form;
   (b) The name, strength, dosage form and package size of the drug;
   (c) The costs of producing the drug;

2. (d) The total administrative expenditures relating to the drug, including marketing and advertising costs;

3. (e) The profit that the manufacturer has earned from the drug and the percentage of the manufacturer’s total profit for the period during which the manufacturer has marketed the drug for sale that is attributable to the drug;

4. (f) The total amount of financial assistance that the manufacturer has provided through any patient prescription assistance program;

5. (g) The cost associated with coupons provided directly to consumers and for programs to assist consumers in paying copayments, and the cost to the manufacturer attributable to the redemption of those coupons and the use of those programs;

6. (h) The wholesale acquisition cost of the drug;

7. (i) A history of any increases in the wholesale acquisition cost of the drug over the 5 years immediately preceding the date on which the report is submitted, including the amount of each such increase expressed as a percentage of the total wholesale acquisition cost of the drug, the month and year in which each increase became effective and any explanation for the increase;

8. (j) The aggregate amount of all rebates that the manufacturer has provided to pharmacy benefit managers for sales of the drug within this State;

9. [and]

   (k) If the manufacturer acquired the intellectual property for the drug within the immediately preceding 5 years:

      (1) The name of the entity from which that intellectual property was acquired;
      (2) The date of the acquisition and the purchase price;
(3) The wholesale acquisition cost at the time of the acquisition;
(4) The wholesale acquisition cost of the drug 1 year before the date of the acquisition; and
(5) The year that the drug was first made available for sale; and
(l) Any additional information prescribed by regulation of the Department for the purpose of analyzing the cost of prescription drugs that appear on the list compiled pursuant to subsection 1 of NRS 439B.630, trends in those costs and rebates available for such drugs.

Sec. 12. NRS 439B.640 is hereby amended to read as follows:
439B.640 1. On or before April 1 of a year in which a drug is included on the list compiled pursuant to subsection 2 of NRS 439B.630, the manufacturer of the drug shall submit to the Department:[a]
(a) A report describing the reasons for the increase in the wholesale acquisition cost of the drug described in that subsection[.]
(b) A statement signed by the person responsible for compiling the report under penalty of perjury affirming the accuracy of the information in the report.

2. The report submitted pursuant to paragraph (a) of subsection 1 must include, without limitation:
   (a) A list of each factor that has contributed to the increase;
   (b) The percentage of the total increase that is attributable to each factor;
   (c) An explanation of the role of each factor in the increase; and
   (d) Any other information prescribed by regulation by the Department.

Sec. 13. NRS 439B.645 is hereby amended to read as follows:
439B.645 1. On or before April 1 of each year, a pharmacy benefit manager shall submit to the Department:[a]
(a) A report which includes the information prescribed by subsection 2; and
(b) A statement signed under penalty of perjury affirming the accuracy of the information in the report.

2. The report submitted pursuant to paragraph (a) of subsection 1 must include:
   (a) The current wholesale acquisition cost of each drug included on the lists compiled by the Department pursuant to NRS 439B.630 and the minimum and maximum wholesale acquisition cost of each such drug during the immediately preceding year;
   (b) The total number of WAC units of each drug included on the list compiled by the Department pursuant to subsection 1 of NRS 439B.630 for which the pharmacy benefit manager negotiated directly with the manufacturer for purchases of the drug for use in in this State during the immediately preceding calendar year;
(c) The number of WAC units of each drug included on the list compiled by the Department pursuant to subsection 1 of NRS 439B.630 for which the pharmacy benefit manager negotiated directly with the manufacturer during the immediately preceding calendar year for purchases of the drug for use in this State by:

(1) Recipients of Medicare;
(2) Recipients of Medicaid;
(3) Persons covered by third parties that are governmental entities which are not described in subparagraph (1) or (2);
(4) Persons covered by commercial insurers;
(5) Persons covered by third parties other than those described in subparagraphs (1) to (4), inclusive;

(d) The total number of units of each drug included on the list compiled by the Department pursuant to subsection 1 of NRS 439B.630 that the pharmacy benefit manager projects to negotiate directly with the manufacturer for purchases of the drug for use in this State during the current calendar year;

(e) The number of units of each drug included on the list compiled by the Department pursuant to subsection 1 of NRS 439B.630 that the pharmacy benefit manager projects to negotiate directly with the manufacturer during the current calendar year for purchases of the drug for use in this State by persons in each category listed in paragraph (c);

(f) The aggregate amount of all the rebates, discounts and other price concessions that the pharmacy benefit manager negotiated with manufacturers during the immediately preceding calendar year for purchases of prescription drugs included on the list compiled by the Department pursuant to subsection 1 of NRS 439B.630 for use in this State, in total for each list compiled by the Department pursuant to that subsection 1 of that section and for each drug included on the list:

(g) The amount of rebates, discounts and other price concessions that the pharmacy benefit manager projects to negotiate during the current calendar year for purchases of prescription drugs included on the list compiled pursuant to subsection 1 of that section:

(h) Included on the list compiled pursuant to subsection 1 of that section;

(i) The aggregate amount of all the rebates, discounts and other price concessions described in paragraph (a) that were retained by the pharmacy benefit manager, in total for each list compiled by the Department pursuant to NRS 439B.630 and for each drug included on such a list:

(j) Compiled pursuant to subsection 1 of that section;
(f) The total aggregate amount of all rebates, discounts and other price concessions described in paragraph (a)(f) (d) that were negotiated for purchases of prescription drugs for use by
— (1) Recipients of Medicare;
— (2) Recipients of Medicaid;
— (3) Persons covered by third parties that are governmental entities which are not described in subparagraph (1) or (2);
— (4) Persons covered by third parties that are not governmental entities; and
— (5) Persons covered by a plan described in subsection 2 to the extent required by a contract entered into pursuant to subsection 3.
— 2. Except as otherwise provided in subsection 3, the requirements of this section do not apply to the coverage of prescription drugs under a plan that is subject to the Employee Retirement Income Security Act of 1974 or any information relating to such coverage.
— 3. A plan described in subsection 2 may, by contract, require a pharmacy benefit manager that manages the coverage of prescription drugs under the plan to comply with the requirements of this section for persons in each category listed in paragraph (c), in total for each list compiled by the Department pursuant to NRS 439B.630 and for each drug included on such a list.
— (g) The amount of rebates, discounts and other price concessions described in paragraph (a) that are projected to be negotiated for purchases of prescription drugs for use by persons in each category listed in paragraph (c), in total for each list compiled by the Department pursuant to NRS 439B.630 and for each drug included on such a list.
— (h) The amount of discounts, dispensing fees or other fees that the pharmacy benefit manager negotiated with pharmacies, prescription drug networks or pharmacy services administrative organizations during the immediately preceding calendar year for purchases of prescription drugs included on each list compiled by the Department pursuant to NRS 439B.630 for use in this State, in total for each list and for each drug.
— (i) The amount of discounts, dispensing fees or other fees that the pharmacy benefit manager projects to negotiate with pharmacies, prescription drug networks or pharmacy services administrative organizations during the current calendar year for purchases of prescription drugs included on each list compiled by the Department pursuant to NRS 439B.630 for use in this State, in total for each list and for each drug.
— (j) The amount of discounts, dispensing fees or other fees described in paragraph (g) (h) (i) (k) which were negotiated for purchases of prescription drugs for use by persons in each category prescribed by paragraph (c), in total for each list compiled by the Department pursuant to NRS 439B.630 and for each drug included on such a list.
(o) The amount of discounts, dispensing fees or other fees described in paragraph (m) which are projected to be negotiated for purchases of prescription drugs for use by persons in each category prescribed by paragraph (c), in total for each list compiled by the Department pursuant to NRS 439B.630 and for each drug included on such a list.

(p) The net income received by the pharmacy benefit manager during the immediately preceding calendar year for purchases of prescription drugs included on each list compiled by the Department pursuant to NRS 439B.630 for use in this State, in total for each list and for each drug.

(q) The net income that the pharmacy benefit manager projects to receive during the current calendar year for purchases of prescription drugs included on each list compiled by the Department pursuant to NRS 439B.630 for use in this State, in total for each list and for each drug.

(r) The net income described in paragraph (p) which was derived from purchases of prescription drugs for use by persons in each category prescribed by paragraph (c), in total for each list compiled by the Department pursuant to NRS 439B.630 and for each drug included on such a list.

(s) The net income described in paragraph (q) which is projected to derive from purchases of prescription drugs for use by persons in each category prescribed by paragraph (c), in total for each list compiled by the Department pursuant to NRS 439B.630 and for each drug included on such a list.

(t) Any other information prescribed by regulation of the Department.

Sec. 14. NRS 439B.650 is hereby amended to read as follows:

439B.650  On or before June 1 of each year, the Department shall analyze: 1. Analyze the information submitted pursuant to NRS 439B.635, 439B.640 and 439B.645 and section 6 and 7 of this act and compile a report on the price of prescription drugs that appear on the most current lists compiled by the Department pursuant to NRS 439B.630. The report:

(a) Must include, without limitation, a separate analysis of the information reported by manufacturers, pharmacy benefit managers, wholesalers, and third parties; the reasons for any increases in the prices of prescription drugs in this State and the effect of those prices on overall spending on prescription drugs, insurance premiums and cost-sharing in this State; and

(b) May include, without limitation, opportunities for persons and entities in this State to lower the cost of prescription drugs for the treatment of asthma and diabetes while maintaining access to such drugs.

2. Present the findings in the report at a public hearing.

Sec. 15. NRS 439B.670 is hereby amended to read as follows:

439B.670  1. Except as otherwise provided in subsection 2, the Department shall:
(a) Place or cause to be placed on the Internet website maintained by the Department:
   (1) The information provided by each pharmacy pursuant to NRS 439B.655;
   (2) The information compiled by a nonprofit organization pursuant to NRS 439B.665 if such a report is submitted pursuant to paragraph (b) of subsection 1 of that section;
   (3) The lists of prescription drugs compiled by the Department pursuant to NRS 439B.630;
   (4) The wholesale acquisition cost of each prescription drug, as reported pursuant to NRS 439B.635 and 439B.645 and section 6 of this act; and
   (5) The reports compiled by the Department pursuant to NRS 439B.650 and 439B.660.

(b) Ensure that the information placed on the Internet website maintained by the Department pursuant to paragraph (a) is organized so that each individual pharmacy, manufacturer and nonprofit organization has its own separate entry on that website; and

(c) Ensure that the usual and customary price that each pharmacy charges for each prescription drug that is on the list prepared pursuant to NRS 439B.625 and that is stocked by the pharmacy:
   (1) Is presented on the Internet website maintained by the Department in a manner which complies with the requirements of NRS 439B.675; and
   (2) Is updated not less frequently than once each calendar quarter.

Nothing in this subsection prohibits the Department from determining the usual and customary price that a pharmacy charges for a prescription drug by extracting or otherwise obtaining such information from claims reported by pharmacies to the Medicaid program.

2. If a pharmacy is part of a larger company or corporation or a chain of pharmacies or retail stores, the Department may present the pricing information pertaining to such a pharmacy in such a manner that the pricing information is combined with the pricing information relative to other pharmacies that are part of the same company, corporation or chain, to the extent that the pricing information does not differ among those pharmacies.

3. The Department may establish additional or alternative procedures by which a consumer who is unable to access the Internet or is otherwise unable to receive the information described in subsection 1 in the manner in which it is presented by the Department may obtain that information:
   (a) In the form of paper records;
   (b) Through the use of a telephonic system; or
   (c) Using other methods or technologies designed specifically to assist consumers who are hearing impaired or visually impaired.

4. As used in this section, “usual and customary price” means the usual and customary charges that a pharmacy charges to the general public for a drug, as described in 42 C.F.R. § 447.512.
Sec. 16. NRS 439B.685 is hereby amended to read as follows:

439B.685 The Department shall adopt such regulations as it determines to be necessary or advisable to carry out the provisions of NRS 439B.600 to 439B.695, inclusive and sections 1.3 to 8, inclusive, of this act. Such regulations must provide for, without limitation:

1. Notice to consumers stating that:
   (a) Although the Department will strive to ensure that consumers receive accurate information regarding pharmacies, prescription drugs and nonprofit organizations including, without limitation, the information made available on the Department’s Internet website pursuant to NRS 439B.670, the Department is unable to guarantee the accuracy of such information;
   (b) If a consumer follows an Internet link from the Internet website maintained by the Department to an Internet website not maintained by the Department, the Department is unable to guarantee the accuracy of any information made available on that Internet website; and
   (c) The Department advises consumers to contact a pharmacy, manufacturer or nonprofit organization directly to verify the accuracy of any information regarding the pharmacy, a prescription drug manufactured by the manufacturer or the nonprofit organization, as applicable, which is made available to consumers pursuant to NRS 439B.600 to 439B.695, inclusive and sections 1.3 to 8, inclusive, of this act;

2. Procedures adopted to direct consumers who have questions regarding the program described in NRS 439B.600 to 439B.695, inclusive, and sections 1.3 to 8, inclusive, of this act to contact the Office for Consumer Health Assistance of the Department;

3. Provisions in accordance with which the Department will allow an Internet link to the information made available on the Department’s Internet website pursuant to NRS 439B.670 to be placed on other Internet websites managed or maintained by other persons and entities, including, without limitation, Internet websites managed or maintained by:
   (a) Other governmental entities, including, without limitation, the State Board of Pharmacy and the Office of the Governor; and
   (b) Nonprofit organizations and advocacy groups;

4. Procedures pursuant to which consumers, pharmacies, manufacturers and nonprofit organizations may report to the Department that information made available to consumers pursuant to NRS 439B.600 to 439B.695, inclusive, and sections 1.3 to 8, inclusive, of this act is inaccurate;

5. Procedures for registration pursuant to section 5 of this act and the fee for such registration, which must be calculated to produce the revenue necessary to cover the cost of the activities conducted by the Department pursuant to NRS 439B.600 to 439B.695, inclusive, and sections 2 to 8, inclusive, of this act;

6. The form and manner in which pharmacies are to provide to the Department the information described in NRS 439B.655; [and]
6. The form and manner in which manufacturers are to provide to the Department the information described in NRS 439B.635, 439B.640 and 439B.660;

7. The form and manner in which pharmacy benefit managers are to provide to the Department the information described in NRS 439B.645;

8. The form and manner in which pharmaceutical sales representatives are to provide to the Department the information described in NRS 439B.660;

9. The form and manner in which nonprofit organizations are to provide to the Department the information described in NRS 439B.665, if required; and

10. The form and manner in which wholesalers are to provide the Department with the information described in section 6 of this act;

11. Standards and criteria pursuant to which the Department may remove from its Internet website information regarding a pharmacy or an Internet link to the Internet website maintained by a pharmacy, or both, if the Department determines that the pharmacy has:

(a) Ceased to be licensed and in good standing pursuant to chapter 639 of NRS; or

(b) Engaged in a pattern of providing to consumers information that is false or would be misleading to reasonably informed persons.

Sec. 17. NRS 439B.690 is hereby amended to read as follows:

439B.690 [1. On or before July 1 of each odd-numbered year, the Department shall make a determination of whether sufficient money is available and authorized for expenditure to fund one or more components of the programs and other duties of the Department relating to NRS 439B.600 to 439B.695, inclusive.

2. The Department shall temporarily suspend any components of the program or duties of the Department for which it determines pursuant to subsection 1 that sufficient money is not available.

3.] The Department may apply for and accept any available grants and may accept any bequests, devices, donations or gifts from any public or private source to carry out the provisions of NRS 439B.600 to 439B.695, inclusive, and sections 2 to 8, inclusive, of this act.

(Deleted by amendment.)

Sec. 18. NRS 439B.695 is hereby amended to read as follows:

439B.695 1. If a pharmacy that is licensed under the provisions of chapter 639 of NRS and is located within the State of Nevada fails to provide to the Department the information required to be provided pursuant to NRS 439B.655 or fails to provide such information on a timely basis, and the failure was not caused by excusable neglect, technical problems or other extenuating circumstances, the Department may impose against the pharmacy an administrative penalty of not more than $500 for each day of such failure.
2. If a manufacturer, pharmacy benefit manager, wholesaler or third party fails to register with the Department as required by section 5 of this act or fails to register on a timely basis, the Department may impose against the manufacturer, pharmacy benefit manager, wholesaler or third party, as applicable, an administrative penalty of not more than $30,000 for each day of such failure.

3. If a manufacturer fails to provide to the Department the information required by NRS 439B.635, 439B.640 or 439B.660, a pharmacy benefit manager fails to provide to the Department the information required by NRS 439B.645, a wholesaler fails to provide to the Department the information required by section 6 of this act or a nonprofit organization fails to post or provide to the Department, as applicable, the information required by NRS 439B.665, a wholesaler fails to provide to the Department the information required by section 6 of this act, a third party fails to provide to the Department the information required by section 7 of this act, or a manufacturer, pharmacy benefit manager, wholesaler or nonprofit organization fails to post or provide, as applicable, such information on a timely basis, and the failure was not caused by excusable neglect, technical problems or other extenuating circumstances, the Department may impose against the manufacturer, pharmacy benefit manager, wholesaler or nonprofit organization, as applicable, an administrative penalty of not more than $5,000 for each day of such failure.

4. If a nonprofit organization fails to provide the information required by NRS 439B.665 or fails to provide such information on a timely basis, and the failure was not caused by excusable neglect, technical problems or other extenuating circumstances, the Department may impose against the nonprofit organization an administrative penalty of not more than $5,000 for each day of such failure.

5. If a pharmaceutical sales representative fails to comply with the requirements of NRS 439B.660, the Department may impose against the pharmaceutical sales representative an administrative penalty of not more than $500 for each day of such failure.

6. Any money collected as administrative penalties pursuant to this section must be accounted for separately and used by the Department:

(a) For purposes relating to improvement of transparency concerning the costs of prescription drugs, including, without limitation, the administration of NRS 439B.600 to 439B.695, inclusive, and sections 1.3 to 8, inclusive, of this act; and

(b) To establish and carry out programs to provide education concerning asthma and diabetes and prevent these chronic diseases.

Sec. 19. NRS 600A.030 is hereby amended to read as follows:

600A.030 As used in this chapter, unless the context otherwise requires:
1. “Improper means” includes, without limitation:
(a) Theft;
(b) Bribery;
(c) Misrepresentation;
(d) Willful breach or willful inducement of a breach of a duty to maintain secrecy;
(e) Willful breach or willful inducement of a breach of a duty imposed by common law, statute, contract, license, protective order or other court or administrative order; and
(f) Espionage through electronic or other means.
2. “Misappropriation” means:
   (a) Acquisition of the trade secret of another by a person by improper means;
   (b) Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or
   (c) Disclosure or use of a trade secret of another without express or implied consent by a person who:
       (1) Used improper means to acquire knowledge of the trade secret;
       (2) At the time of disclosure or use, knew or had reason to know that his or her knowledge of the trade secret was:
           (I) Derived from or through a person who had used improper means to acquire it;
           (II) Acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or
           (III) Derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or
       (3) Before a material change of his or her position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.
3. “Owner” means the person who holds legal or equitable title to a trade secret.
4. “Person” means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.
5. “Trade secret”:
   (a) Means information, including, without limitation, a formula, pattern, compilation, program, device, method, technique, product, system, process, design, prototype, procedure, computer programming instruction or code that:
       (1) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by the public or any other persons who can obtain commercial or economic value from its disclosure or use; and
       (2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
(b) Does not include any information that a manufacturer is required to report pursuant to NRS 439B.635 or 439B.640, information that a pharmaceutical sales representative is required to report pursuant to NRS 439B.660, information that a pharmacy benefit manager is required to report pursuant to NRS 439B.645, or information that a wholesaler is required to report pursuant to section 6 of this act, to the extent that such information is required to be disclosed by those sections.

Sec. 19.5. NRS 689A.405 is hereby amended to read as follows:

689A.405  1. An insurer that offers or issues a policy of health insurance which provides coverage for prescription drugs shall include with any summary, certificate or evidence of that coverage provided to an insured, notice of whether a formulary is used and, if so, of the opportunity to secure information regarding the formulary from the insurer pursuant to subsection 2. The notice required by this subsection must:

(a) Be in a language that is easily understood and in a format that is easy to understand;
(b) Include an explanation of what a formulary is; and
(c) If a formulary is used, include:
   (1) An explanation of:
      (I) How often the contents of the formulary are reviewed; and
      (II) The procedure and criteria for determining which prescription drugs are included in and excluded from the formulary; and
   (2) The telephone number of the insurer for making a request for information regarding the formulary pursuant to subsection 2.

2. If an insurer offers or issues a policy of health insurance which provides coverage for prescription drugs and a formulary is used, the insurer shall:
   (a) Provide to any insured or participating provider of health care, upon request:
      (1) Information regarding whether a specific drug is included in the formulary.
      (2) Access to the most current list of prescription drugs in the formulary, organized by major therapeutic category, with an indication of whether any listed drugs are preferred over other listed drugs. If more than one formulary is maintained, the insurer shall notify the requester that a choice of formulary lists is available.
   (b) Notify each person who requests information regarding the formulary, that the inclusion of a drug in the formulary does not guarantee that a provider of health care will prescribe that drug for a particular medical condition.
   (c) During each period for open enrollment, publish on an Internet website that is operated by the insurer and accessible to the public or include in any enrollment materials distributed by the insurer a notice of all prescription drugs that:
(1) Are included on the most recent list of drugs [that are essential for treating asthma and diabetes in this State] compiled by the Department of Health and Human Services pursuant to subsection 1 of NRS 439B.630; and
(2) Have been removed or will be removed from the formulary during the current plan year or the next plan year.
(d) Update the notice required by paragraph (c) throughout the period for open enrollment.

Sec. 20. Notwithstanding the provisions of NRS 218D.430 and 218D.435, a committee, other than the Assembly Standing Committee on Ways and Means and the Senate Standing Committee on Finance, may vote on this act before the expiration of the period prescribed for the return of a fiscal note in NRS 218D.475. This section applies retroactively from and after March 22, 2021.

Senator Ratti moved the adoption of the amendment.
Remarks by Senator Ratti.
(To be entered at a later date.)

Amendment adopted.
Senator Brooks moved that the bill be re-referred to the Committee on Finance, upon return from reprint.
Motion carried. Bill ordered reprinted, engrossed and to the Committee on Finance.

Senate Bill No. 390.
Bill read third time.

The following amendment was proposed by the Committee on Health and Human Services:
Amendment No. 284.

SUMMARY—[Provides for the establishment of a statewide suicide prevention and mental health crisis hotline.] Revises provisions relating to behavioral health. (BDR 39-635)

AN ACT relating to [mental] behavioral health; providing for the establishment of a suicide prevention and [mental] behavioral health crisis hotline; requiring the imposition of a surcharge on certain communications services to support the hotline; creating the [Capital] Nevada Fund for [Behavioral Health] Healthy Communities; requiring the State Treasurer to deposit the proceeds of certain litigation into the Fund; authorizing the Department of Health and Human Services to use a portion of the money in the Fund for certain statewide projects; requiring the Department [of Health and Human Services] to award grants from the Fund to support certain [capital] projects [to] address the impact of opioid use disorder and other substance use disorders; prescribing certain procedures relating to the awarding of those grants; and providing other matters properly relating thereto.
Legislative Counsel’s Digest:

Existing federal law establishes the National Suicide Prevention Lifeline program, including the establishment of a national suicide prevention and mental health crisis hotline that may be accessed by dialing the digits 9-8-8. (42 U.S.C. § 290bb-36c, 47 U.S.C. § 251(e)(4)) Section 2 of this bill defines the term “National Suicide Prevention Lifeline program” to refer to that program. Section 3 of this bill requires the Division of Public and Behavioral Health of the Department of Health and Human Services to establish: (1) a hotline for persons who are considering suicide or otherwise in a behavioral health crisis that may be accessed by dialing the digits 9-8-8; and (2) at least one support center to answer calls to the hotline and coordinate the response to those calls. Section 3 also requires the Division to: (1) encourage the establishment of or establish mobile crisis teams to respond to calls; and (2) perform certain other duties related to the hotline. Section 4 of this bill establishes operational requirements and duties for a support center. Those duties include coordinating and deploying necessary services for persons who access the hotline and providing follow-up services for such persons. Section 6 of this bill requires the Division to annually submit to the Legislature, the Commission on Behavioral Health and each regional behavioral health policy board a report concerning the usage of the hotline and the services provided to persons who access the hotline.

Existing federal law authorizes a state to impose a fee or charge on a commercial mobile communication service or an IP-enabled voice service to fund the operations of a suicide prevention and mental health crisis hotline established pursuant to the National Suicide Prevention Lifeline program. (47 U.S.C. § 251a) Section 5 of this bill requires the Public Utilities Commission to impose a surcharge on mobile communication services, IP-enabled voice services and landline telephone services. Section 5 requires the Commission to deposit the proceeds from the surcharge into an account administered by the Division. Section 5 additionally authorizes the Division to accept gifts, grants and donations to support the operation of the hotline and the services provided to persons who access the hotline. Section 6 of this bill requires the Division to annually submit to the Legislature a report concerning the revenue generated by the surcharge and deposits and expenditures from the account.

Existing law: (1) creates the Fund for a Healthy Nevada; (2) requires the State Treasurer to deposit in the Fund the proceeds of litigation by the State against manufacturers of tobacco products; and (3) requires the Department of Health and Human Services, with the authorization of the Legislature, to allocate the money in the Fund for certain purposes to address the health needs of residents of this State. (NRS 439.620, 439.630) Sections 7-9.5 of this bill similarly: (1) create the Capital Nevada Fund for Healthy Communities to hold the proceeds of litigation by the State concerning the manufacture, distribution, sale and marketing of opioids; and (2) provide
for the distribution of that money as grants to state, regional, local and tribal governments and nonprofit organizations for [capital] projects that address the impacts of opioid use disorder and other [behavioral health] substance use disorders. Section 7 of this bill defines the term “Fund” to refer to the Fund. Section 8 of this bill creates the Fund and requires the State Treasurer to administer the Fund. Section 9 of this bill requires the Department of Health and Human Services to: (1) conduct a needs assessment to determine the priorities for allocating money from the Fund; and (2) distribute the money in the Fund as grants to state, regional, local [governments] and tribal agencies and nonprofit organizations for [capital] projects that address the impacts of opioid use disorder and other [behavioral health] substance use disorders. Section 8 additionally authorizes the Department, subject to legislative authorization, to spend the money in the Fund for certain statewide projects. Section 9.5 of this bill: (1) prescribes specific requirements concerning the needs assessment conducted pursuant to section 9; and (2) requires state, regional, local and tribal agencies to submit to the Department plans to address the priorities identified in the needs assessment. Section 9 requires the Department to consider those plans when awarding grants. Section 8 requires [such grants] expenditures from the Fund to be authorized by the Interim Finance Committee. Section 10 of this bill authorizes the Interim Finance Committee to perform duties relating to the authorization of such grants during a regular session of the Legislature. [Section 9 requires the Department of the Grants Management Advisory Committee of the Department to conduct public hearings regarding capital projects that address the impacts of opioid use disorder and other behavioral health disorders and develop recommendations for awarding grants based on the input received at those hearings.] Section 11 of this bill requires any state agency that has previously received proceeds of litigation by the State concerning the manufacture, distribution, sale and marketing of opioids to transfer any uncommitted portion of those proceeds to the State Treasurer for deposit in the Fund.

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

Section 1. Chapter 433 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to [9, inclusive, of this act.

Sec. 2. As used in sections 2 to 6, inclusive, of this act, unless the context otherwise requires, “National Suicide Prevention Lifeline program” means the National Suicide Prevention Lifeline program established by 42 U.S.C. § 290bb-36c.

Sec. 3. 1. The Division shall:

(a) Establish a hotline for persons who are considering suicide or otherwise in a [mental] behavioral health crisis that may be accessed by dialing the digits 9-8-8;
(b) Establish at least one support center that meets the requirements of section 4 of this act to answer calls to the hotline and coordinate the response to persons who access the hotline;

c) Encourage the establishment of and, to the extent that money is available, establish mobile crisis teams to provide community-based intervention, including, without limitation, de-escalation and stabilization, for persons who are considering suicide or otherwise in a mental behavioral health crisis and access the hotline;

d) Participate in any collection of information by the Federal Government concerning the National Suicide Prevention Lifeline program;

e) Collaborate with the National Suicide Prevention Lifeline program and the Veterans Crisis Line program established pursuant to 38 U.S.C. § 1720F(h) to ensure consistent messaging to the public about the hotline; and

(f) Adopt any regulations necessary to carry out the provisions of sections 2 to 6, inclusive, of this act, including, without limitation:

(1) Regulations establishing the qualifications of providers of services who are involved in responding to persons who are considering suicide or are otherwise in a mental behavioral health crisis and access the hotline; and

(2) Any regulations necessary to allow for communication and sharing of information between persons and entities involved in responding to crises and emergencies in this State to facilitate the coordination of care for persons who are considering suicide or are otherwise in a mental behavioral health crisis and access the hotline.

2. A mobile crisis team established pursuant to paragraph (c) of subsection 1 must be:

(a) A team based in the jurisdiction that it serves which includes persons professionally qualified in the field of psychiatric mental health and providers of peer support services;

(b) A team established by a provider of emergency medical services that includes providers of peer support services; or

(c) A team established by a law enforcement agency that includes law enforcement officers, persons professionally qualified in the field of psychiatric mental health and providers of peer support services.

3. As used in this section, “peer support services” has the meaning ascribed to it in NRS 449.01566.

Sec. 4. 1. Any support center established pursuant to section 3 of this act must:

(a) Meet the requirements established for participation in the National Suicide Prevention Lifeline program including, without limitation, requirements established by the National Suicide Prevention Lifeline Program for serving lesbian, gay, bisexual, transgender and questioning persons, persons with substance use disorders or persons with co-occurring disorders, Native Americans and other high-risk and specialized populations identified by the Substance Abuse and Mental Health Services Administration of the
United States Health and Human Services. Such requirements include, without limitation, requirements for training staff to respond to callers who are members of specialized populations and transferring such callers to an appropriate specialized center or subnetwork.

(b) Use technology that is interoperable between systems for responding for crises and emergencies across this State, including, without limitation:

1. Systems used to provide emergency 911 service;
2. Systems used by providers of emergency medical services; and

2. A support center shall:

3. As used in this section, “crisis receiving and stabilization services” means services provided over the 24 hours immediately following a call to the hotline established pursuant to section 3 of this act in the home of the person receiving services or an environment similar to a home. Such services may include, without limitation, diagnosis, initial management, observation, crisis stabilization and referral for additional services.

Sec. 5. 1. The Public Utilities Commission of Nevada shall:

(a) Impose a surcharge on each access line of each customer of a company that provides commercial mobile communication services or IP-enabled voice services in this State in accordance with 47 U.S.C. § 251a and each access line or trunk line of each customer to the local exchange of any telecommunications provider providing those lines in this State. Those companies and providers shall collect the surcharge from their customers and transfer the money collected to the Commission pursuant to regulations adopted by the Commission.
(b) In consultation with the Division, adopt regulations establishing the amount of the surcharge, which must be sufficient to support the uses set forth in subsection 2.

2. The Crisis Response Account is hereby created in the State General Fund. Any money collected from the surcharge imposed pursuant to subsection 1 must be deposited in the State Treasury for credit to the Account. The Division shall administer the Account. The money in the Account must be used only for purposes authorized by 47 U.S.C. § 251a.

3. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.

4. Any money remaining in the Account at the end of each fiscal year does not revert to the State General Fund but must be carried over into the next fiscal year.

5. The Division may accept gifts, grants and donations for the purpose of carrying out the provisions of sections 2 to 6, inclusive, of this act.

Sec. 6. On or before December 31 of each year, the Division shall compile:

1. A report concerning the usage of the hotline established pursuant to section 3 of this act and the services provided to persons who are considering suicide or otherwise in a behavioral health crisis and access the hotline and submit the report to:
   (a) The Commission on Behavioral Health;
   (b) Each regional behavioral health policy board created by NRS 433.429; and
   (c) The Director of the Legislative Counsel Bureau for transmittal to:

2. A report concerning the revenue generated by the surcharge imposed pursuant to section 5 of this act and deposits and expenditures from the Account created by that section and submit the report to the Director of the Legislative Counsel Bureau for transmittal to:
   (a) In odd-numbered years, the Interim Finance Committee; and
   (b) In even-numbered years, the next regular session of the Legislature.

Sec. 7. As used in sections 7 to 9.5, inclusive, of this act, unless the context otherwise requires, “Fund” means the Nevada Fund for Healthy Communities created by section 8 of this act.

Sec. 8. 1. The Nevada Fund for Healthy Communities is hereby created in the State Treasury. The State Treasurer shall deposit in the Fund:

(a) All money received by this State pursuant to any settlement entered into by the State of Nevada concerning the manufacture, distribution, sale and marketing of opioids; and
(b) All money recovered by this State from a judgment in a civil action by the State of Nevada concerning the manufacture, distribution, sale and marketing of opioids.

2. The State Treasurer shall administer the Fund. As administrator of the Fund, the State Treasurer:
   (a) Shall maintain the financial records of the Fund;
   (b) Shall invest the money in the Fund as the money in other state funds is invested;
   (c) Shall manage any account associated with the Fund;
   (d) Shall maintain any instruments that evidence investments made with the money in the Fund;
   (e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and
   (f) May perform any other duties necessary to administer the Fund.

3. The interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

4. The State Treasurer [or the Department] may submit to the Interim Finance Committee a request for an allocation for administrative expenses from the Fund pursuant to this section. Except as otherwise limited by this subsection, the Interim Finance Committee may allocate all or part of the money so requested. The annual allocation for administrative expenses from the Fund must:
   (a) Not exceed 2 percent of the money in the Fund, as calculated pursuant to subsection 5, each year to pay the costs incurred by the State Treasurer to administer the Fund; and
   (b) Not exceed 5 percent of the money in the Fund, as calculated pursuant to subsection 5, each year to pay the costs incurred by the Department to carry out its duties set forth in section 9 of this act.

5. For the purposes of subsection 4, the amount of money available for allocation to pay for the administrative costs must be calculated at the beginning of each fiscal year based on the total amount of money anticipated by the State Treasurer to be deposited in the Fund during that fiscal year.

6. The money in the Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.

7. Except as otherwise provided in subsection 8, all money that is deposited or paid into the Fund is hereby appropriated to the Department to be used, subject to legislative authorization, to:
   (a) Perform the duties prescribed by sections 9 and 9.5 of this act; and
   (b) Award grants of money to state, regional, local and tribal agencies and nonprofit organizations pursuant to section 9 of this act. Money expended from the Fund must not be used to supplant existing methods of funding that are available to state, regional, local or tribal agencies.
8. Subject to legislative authorization, the Department may spend money in the Fund for statewide projects, including, without limitation:
   (a) Workforce development;
   (b) The collection and analysis of data; and
   (c) Capital projects, including, without limitation, construction, purchasing and remodeling.

9. The Department may accept and transfer to the State Treasurer for deposit into the Fund gifts, grants, donations and appropriations to support the capital projects described in section 9.1 activities described in sections 7 to 9.5, inclusive, of this act.

10. The Department shall submit all proposed expenditures from the Fund pursuant to subsection 8 and section 9 of this act to the Interim Finance Committee. Upon approval of the appropriate committee or committees, the money may be so expended.

Sec. 9.1. The Department shall:
   (a) Conduct, or require the Grants Management Advisory Committee created by NRS 232.383 to conduct, public hearings to accept public testimony from a wide variety of sources and perspectives regarding capital projects that address the impacts of opioid use disorder and other behavioral health disorders.
   (b) Establish a process to evaluate the needs of the residents of this State relating to opioid use disorder and other behavioral health disorders and a system to use available data to measure the impact of opioid use disorder in this State, including, without limitation, disparities in the impact of opioid use disorder relating to race, ethnicity and geography. The Department shall annually report the results of the evaluation to:

      (1) The Legislative Committee on Health Care;
      (2) The Commission;
      (3) Each regional behavioral health policy board created by NRS 433.329; and
      (4) Any other committees or commissions the Director of the Department deems appropriate.
   (c) Collaborate with state, regional, local and tribal agencies and nonprofit organizations in this State to conduct a needs assessment and solicit and evaluate plans to address the priorities identified in that assessment pursuant to section 9.5 of this act.
   (b) Subject to legislative authorization, the fund in accordance with the procedures developed pursuant to paragraph (f), award grants from the Fund to state, regional, local governments, and tribal agencies and nonprofit organizations for capital projects that address the impacts of opioid use disorder and other behavioral health disorders, including, without limitation, the construction, purchasing, remodeling and equipment of:

      (1) Psychiatric hospitals operating as crisis stabilization centers in accordance with NRS 449.0915.
(2) Specialized foster homes, as defined in NRS 424.018;
(3) Emergency shelters for children and other forms of emergency housing; and
(4) Transitional housing and supportive housing for persons with opioid use disorders or other behavioral health disorders.

(d) Maximize expenditures through local, federal and private matching contributions.

(e) Ensure that any money expended from the Fund will not be used to supplant existing methods of funding that are available to local governments.

(f) (c) Develop policies and procedures for the administration and distribution of grants pursuant to paragraph (c) (b). A condition of any such grant must be that not more than 8 percent of the grant may be used for administrative expenses or other indirect costs.

(d) In awarding grants pursuant to paragraph (c) (b):

(1) Prioritize and quantify the needs for the capital projects described in that paragraph based on the results of the evaluation conducted pursuant to paragraph (b);

(2) Develop, solicit and accept applications for grants;

(3) Review and consider:

(I) The results of the needs assessment conducted and the proposals in the plans received pursuant to section 9.5 of this act; and

(II) Any recommendations of the Grants Management Advisory Committee submitted pursuant to subsection 3; and

(4) Office of the Attorney General;

(3) Take into account any money received by a county or tribal agency of which the Department is notified pursuant to subsection 2 when determining the need for the grant;

(4) To determine the amount of any money that will be allocated to county and tribal agencies, use a formula that uses a multiplier based on the population of the county or the number of members of the tribe, as applicable, and the impact of opioid use disorder on the county or tribe; and

(5) Conduct annual evaluations of programs to which grants have been awarded.

(e) On or before January 31 of each year, transmit a report of all findings and recommendations made and grants awarded pursuant to this section to:

(1) The Governor;

(2) The Director of the Legislative Counsel Bureau for transmittal to:

(I) In odd-numbered years, the next regular session of the Legislature; and

(II) In even-numbered years, the Legislative Committee on Health Care and the Interim Finance Committee;

(3) The Commission;
Each regional behavioral health policy board created by NRS 433.429; and

The Office of the Attorney General; and

Any other committees or commissions the Director of the Department deems appropriate.

2. Each county or tribal agency that applies for or receives a grant pursuant to this section shall notify the Department of any money received through a settlement or judgment concerning the manufacture, distribution, sale and marketing of opioids.

3. Each state, regional, local or tribal agency and any nonprofit organization that receives a grant pursuant to this section shall annually submit to the Department a report concerning the expenditure of the money that was received and the outcomes of the projects on which that money was spent.

4. The Department may adopt any regulations or take such other actions as are necessary to carry out its duties pursuant to this section.

5. On or before June 30 of each even-numbered year, the Grants Management Advisory Committee shall submit to the Director of the Department a report that includes, without limitation, recommendations regarding community needs and priorities that are determined by the Advisory Committee after any public hearings held by the Advisory Committee or the Department.

Sec. 9.5.

1. A needs assessment conducted pursuant to paragraph (a) of subsection 1 of section 9 of this act must, to the extent that resources are available:

   (a) Be evidence-based and use information from damages reports created by experts as part of the litigation described in subsection 1 of section 8 of this act.

   (b) Include an analysis of the impacts of opioid use and opioid use disorder on this State that uses quantitative and qualitative data concerning this State and the regions, counties and Indian tribes in this State to determine the risk factors that contribute to opioid use, the use of substances and the rates of opioid use disorder, other substance use disorders and co-occurring disorders among residents of this State.

   (c) Focus on health equity and identifying disparities across all racial and ethnic populations, geographic regions and special populations in this State. Such special populations include, without limitation, veterans, pregnant women, parents of dependent children, youth, persons who are lesbian, gay, bisexual, transgender and questioning, and persons and families involved in the criminal justice system, juvenile justice system and child welfare system.

   (d) Take into account the resources of state, regional, local and tribal agencies and nonprofit organizations and the programs currently existing in each geographic region of this State to address opioid use disorder and other substance use disorders.
(e) Based on the information and analyses described in paragraphs (a) to (d), inclusive, input from interested persons and experts and established best practices for use of funds described in subsection 1 of section 8 of this act, establish a statement of priorities for the use of the funds described in subsection 1 of section 8 of this act by state, regional, local and tribal agencies and nonprofit organizations. Such priorities must include, without limitation, priorities related to the prevention of overdoses, addressing disparities in access to health care and the prevention of substance use among youth. The Department shall revise the statement of priorities at least once every 3 years.

2. When conducting a needs assessment, the Department and the state, regional, local and tribal agencies and nonprofit organizations with which it collaborates shall use community-based participatory research methods or similar methods to conduct outreach to groups impacted by the use of opioids, opioid use disorder and other substance use disorders, including, without limitation:
   (a) Persons and families impacted by the use of opioids and other substances;
   (b) Providers of treatment for opioid use disorder and other substance use disorders;
   (c) Substance use disorder prevention coalitions;
   (d) Communities of persons in recovery from opioid use disorder and other substance use disorders;
   (e) Providers of services to reduce the harms caused by opioid use disorder and other substance use disorders;
   (f) The Office of the Attorney General, the Department of Public Safety, the Department of Corrections and other persons and entities involved in law enforcement or criminal justice;
   (g) Agencies which provide child welfare services and other persons and entities involved in the child welfare system;
   (h) Providers of social services;
   (i) Faith-based organizations;
   (j) Public health agencies;
   (k) Providers of health care and entities that provide health care services; and
   (l) Members of diverse communities disproportionately impacted by opioid use and opioid use disorder.

3. Based on the needs assessment, state, regional, local and tribal agencies whose work relates to opioid use disorders and other substance use disorders shall, to the extent that resources are available, develop and submit to the Department for consideration a plan to address the priorities identified in the statement of priorities, including, without limitation, priorities related to the prevention of overdoses, addressing disparities in access to health care and the prevention of substance use among youth. Such a plan must:
   (a) Include, without limitation:
(1) A detailed description of the projects for which the state, regional, local or tribal agency proposes to receive funding pursuant to section 9 of this act and the priorities that each project will address;
(2) A timeline for each project described in subparagraph (1);
(3) A competitive process to allocate any funding that will be subgranted by the state, regional, local or tribal agency;
(4) A detailed description of the manner in which funding will be allocated to each project described in subparagraph (1);
(5) A detailed plan to oversee the activities performed under each project described in subparagraph (1);
(6) A summary of public comment provided pursuant to subsection 4; and
(7) A statement of any changes made to the plan as a result of that public comment.
(b) Be revised and resubmitted to the Department at least once every 3 years.
4. A state, regional, local or tribal agency shall, before submitting a plan pursuant to subsection 3 or a revision thereof:
(a) Hold at least three public hearings to solicit input from the public concerning the plan or revision, as applicable; and
(b) Make the plan or revision, as applicable, publicly available for at least 30 days and solicit public comment on the plan.
5. The Department shall coordinate with and provide support to regional, local and tribal agencies developing plans pursuant to subsection 3.
6. As used in this section, “substance use disorder prevention coalition” means a coalition of persons and entities who possess knowledge and experience related to the prevention of substance use and substance use disorders in a region of this State.
Sec. 10. NRS 218E.405 is hereby amended to read as follows:
218E.405 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in a regular or special session.
2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by NRS 228.1111, subsection 5 of NRS 284.115, NRS 285.070, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, subsection 3 of NRS 341.126, NRS 341.142, paragraph (f) of subsection 1 of NRS 341.145, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, 353.288, 353.305, 353C.224, 353C.226, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.4905, 439.620, 439.630, 445B.830, subsection 1 of NRS 445C.320 and NRS 538.650 [1] and section 8 of this act. In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chair of the Interim Finance Committee.
Committee to determine the action of the Interim Finance Committee as a whole.

3. The Chair of the Interim Finance Committee may appoint a subcommittee consisting of six members of the Committee to review and make recommendations to the Committee on matters of the State Public Works Division of the Department of Administration that require prior approval of the Interim Finance Committee pursuant to subsection 3 of NRS 341.126, NRS 341.142 and paragraph (f) of subsection 1 of NRS 341.145. If the Chair appoints such a subcommittee:
   (a) The Chair shall designate one of the members of the subcommittee to serve as the chair of the subcommittee;
   (b) The subcommittee shall meet throughout the year at the times and places specified by the call of the chair of the subcommittee; and
   (c) The Director or the Director’s designee shall act as the nonvoting recording secretary of the subcommittee.

Sec. 11. Any state agency that has received money from a settlement or judgment in a civil action by the State of Nevada concerning the manufacture, distribution, sale and marketing of opioids before January 1, 2022, shall, to the extent authorized by the settlement or judgment, transfer to the State Treasurer any portion of such money that remains uncommitted for deposit in the [Capital Nevada Fund for [Behavioral Health] Healthy Communities] pursuant to section 8 of this act.

Sec. 12. 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. 13. Notwithstanding the provisions of NRS 218D.430 and 218D.435, a committee, other than the Assembly Standing Committee on Ways and Means and the Senate Standing Committee on Finance, may vote on this act before the expiration of the period prescribed for the return of a fiscal note in NRS 218D.475. This section applies retroactively from and after March 22, 2021.

Sec. 14. 1. This section and section 13 of this act become effective upon passage and approval.

2. Sections 1 to 12, inclusive, of this act become effective:
   (a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and
   (b) On January 1, 2022, for all other purposes.

Senator Ratti moved the adoption of the amendment.

Remarks by Senator Ratti.

(To be entered at a later date.)
Amendment adopted.
Senator Brooks moved that the bill be re-referred to the Committee on Finance, upon return from reprint.
Motion carried.
Bill ordered reprinted, engrossed and to the Committee on Finance.

Senate Bill No. 395.
Bill read third time.
Remarks by Senator Goicoechea.
(To be entered at a later date.)

Roll call on Senate Bill No. 395:
YEAS—17.
NAYS—Dondero Loop, Hansen, Scheible, Settelmeyer—4.

Senate Bill No. 395 having received a constitutional majority,
Madam President declared it passed.
Bill ordered transmitted to the Assembly.

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

Senate in recess at 4:32 p.m.

SENATE IN SESSION

At 7:56 p.m.
President Marshall presiding.
Quorum present.

WAIVERS AND EXEMPTIONS
NOTICE OF EXEMPTION
April 20, 2021
The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the eligibility for exemption of: Senate Bill No. 235.

WAYNE THORLEY
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES
Senator Scheible moved that Senate Bill No. 62 be taken from the Secretary's desk and placed on the General File, this Agenda.
Motion carried.

Senator Kieckhefer moved that Senate Bill No. 269 be taken from the Secretary's desk and placed on the General File, this Agenda.
Motion carried.

Senator Cannizzaro moved that Senate Bill No. 57 be taken from the Secretary's desk and placed at the bottom of the General File.
Motion carried.
Senator Cannizzaro moved that Senate Bill No. 314 be taken from the General File and placed on the Secretary’s desk.

Motion carried.

Senator Spearman gave notice that Amendment No. 407 to Senate Bill No. 44 was withdrawn.

GENERAL FILE AND THIRD READING

Senate Bill No. 44.
Bill read third time.
Remarks by Senator Spearman.
(To be entered at a later date.)

Roll call on Senate Bill No. 44:
YEAS—21.
NAYS—None.

Senate Bill No. 44 having received a two-thirds majority, Madam President declared it passed.
Bill ordered transmitted to the Assembly.

Senate Bill No. 62.
Bill read third time.
The following amendment was proposed by Senator Scheible:
Amendment No. 467.
SUMMARY—Revises provisions relating to the solicitation of contributions. (BDR 7-413)
AN ACT relating to solicitation of contributions; expanding the types of organizations required to register with the Secretary of State as a charitable organization and make certain disclosures in connection with the solicitation of contributions; revising provisions governing the information required to be filed with the Secretary of State to register as a charitable organization; revising the information required to be disclosed in connection with the solicitation of contributions; revising provisions governing the solicitation of contributions by certain charitable organizations and nonprofit corporations; and providing other matters properly relating thereto.
Legislative Counsel’s Digest:
Existing law requires certain charitable organizations that are exempt from federal income taxes pursuant to 26 U.S.C. § 501(c)(3) and that solicit charitable contributions in this State to register annually with the Secretary of State by filing certain information and a financial report with the Secretary of State. (NRS 82A.100, 82A.110) Existing law also requires a solicitation for any contribution by, for or on behalf of such a charitable organization or certain other nonprofit organizations to contain certain disclosures. (NRS 82A.200, 82A.210) Sections 1 and 2 of this bill expand the requirements to register annually with the Secretary of State and provide certain disclosures in connection with the solicitation of contributions to include the following entities that are not exempt from federal income taxes pursuant to 26 U.S.C.
§ 501(c)(3) and that solicit certain types of contributions: (1) entities that are established for any benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic or other eleemosynary purpose; (2) entities that are established for the benefit of law enforcement, firefighting or public safety personnel; and (3) entities that employ a charitable appeal or reason in soliciting contributions. Section 3 of this bill makes conforming changes to the information required to be included in a registration filed with the Secretary of State to reflect that an entity required to register may not be registered as tax-exempt with the Internal Revenue Service or organized as an entity filed with the Secretary of State. Section 5 of this bill makes various changes to the information required to be disclosed in a solicitation by a charitable organization to reflect the expansion of the types of organizations required to provide such disclosures. Sections 4, 6, 7 and 9 of this bill make conforming changes to refer to terminology revised by section 2.

Existing law prohibits a person who plans, conducts or executes a solicitation for or on behalf of a charitable organization or nonprofit corporation from making certain false claims or omitting certain facts in the solicitation, and provides that engaging in such acts constitutes a deceptive trade practice. (NRS 598.1305) Section 8 of this bill expands the types of charitable organizations subject to these provisions to apply the prohibitions to the additional charitable organizations subject to the registration and disclosure requirements.

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

Section 1. NRS 82A.025 is hereby amended to read as follows:

82A.025 1. “Charitable organization” means any person who, directly or indirectly, solicits contributions, and who:

(a) The Secretary of the Treasury has determined to be tax exempt pursuant to the provisions of section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3);

(b) Is or purports to be established for:

(1) Any benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic or other eleemosynary purpose; or

(2) The benefit of law enforcement, firefighting or other public safety personnel; or

(c) In any manner employs:

(1) A charitable appeal as the basis of any solicitation; or

(2) An appeal that suggests there is a charitable reason for the solicitation.

2. The term does not include an organization that is established for and serving bona fide religious purposes.

3. As used in this section, “charitable reason” means:
(a) Any reason described in section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3);

(b) Any benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic or other eleemosynary reason; or

(c) Any objective that benefits law enforcement, firefighting or other public safety personnel.

Sec. 2. NRS 82A.040 is hereby amended to read as follows:

82A.040 1. “Contribution” means the promise or grant of any money or property of any kind or value in response to a solicitation.

2. The term does not include any:
(a) Bona fide fees; or
(b) Dues or assessments paid by members, if the membership is not conferred solely as a consideration for making a contribution in response to a solicitation.

3. Nothing in this section shall be construed to require a contribution to be tax deductible pursuant to the provisions of section 170 of the Internal Revenue Code, 26 U.S.C. § 170.

Sec. 3. NRS 82A.100 is hereby amended to read as follows:

82A.100 1. Except as otherwise provided in NRS 82A.110, a charitable organization shall not solicit charitable contributions in this State, or have charitable contributions solicited in this State on its behalf by another person, unless the charitable organization is registered with the Secretary of State pursuant to this section. Each chapter, branch or affiliate of a charitable organization may register separately.

2. A charitable organization that wishes to register with the Secretary of State as set forth in subsection 1 must file on a form prescribed by the Secretary of State:
(a) The information required by subsection 4; and
(b) A financial report that satisfies the requirements of subsection 5.

3. If a charitable organization is:
(a) An entity required to file an initial or annual list with the Secretary of State pursuant to this title, the charitable organization must file the information and financial report required by subsection 2 at the time of filing the initial list and at the time of filing each annual list. If the charitable organization did not file the information and financial report required by subsection 2 at the time of filing its initial list or at the time of filing its most recent annual list, it must file the information required by subsection 2 before soliciting charitable contributions in this State, or having charitable contributions solicited in this State on its behalf by another person, and thereafter at the time of filing each annual list.

(b) Not an entity required to file an initial or annual list with the Secretary of State pursuant to this title, the charitable organization must file the information and financial report required by subsection 2 before it solicits
[charitable] contributions in this State, or has [charitable] contributions solicited in this State on its behalf by another person, and annually thereafter on the last day of the month in which the anniversary date of the initial filing of the information and financial report.

4. The form required by subsection 2 must include, without limitation:
   (a) The [exact] full legal name of the charitable organization; [as registered with the Internal Revenue Service;]
   (b) The federal tax identification number of the charitable organization [;]
   (c) [The name of the charitable organization as registered with the Secretary of State or, in the case of a foreign charitable organization, the name of the foreign charitable organization as filed in its jurisdiction of origin;]
   (d) The name or names under which the charitable organization intends to solicit [charitable] contributions;
   (e) One of the following:
      (1) The address and telephone number of the principal place of business of the charitable organization and the address and telephone number of any offices of the charitable organization in this State; or
      (2) If the charitable organization does not maintain an office in this State or does not maintain an office, the name, address and telephone number of the custodian of the financial records of the charitable organization;
   (f) The names and addresses, either residence or business, of the executive personnel of the charitable organization;
   (g) The last day of the fiscal year of the charitable organization;
   (h) The jurisdiction and date of the formation of the charitable organization;
   (i) The tax exempt status of the charitable organization [;]
   (j) If the charitable organization does not file with the Secretary of State articles of incorporation or any other formation document, including, without limitation, a foreign qualification document, as defined in NRS 77.090:
      (1) The purpose for which the charitable organization is organized; and
      (2) The names and addresses, either residence or business, of the officers, directors and trustees of the charitable organization; and
   (k) Any other information deemed necessary by the Secretary of State, as prescribed by regulations adopted by the Secretary of State pursuant to NRS 82A.085.

5. Except as otherwise provided in this subsection, a financial report must contain the financial information of the charitable organization for the most recent fiscal year. In the discretion of the Secretary of State, the financial report may be a copy of the Form 990 of the charitable organization, with all schedules except the schedules of donors, for the most recent fiscal year. If a charitable organization was first formed within the past year and does not have
any financial information or a Form 990 for its most recent fiscal year, the charitable organization must complete the financial report on a form prescribed by the Secretary of State using good faith estimates for its current fiscal year.

6. All information and the financial report filed pursuant to this section are public records. The filing of information pursuant to this section is not an endorsement of any charitable organization by the Secretary of State or the State of Nevada.

Sec. 4. NRS 82A.110 is hereby amended to read as follows:

82A.110 1. A charitable organization is not required to be registered with the Secretary of State pursuant to NRS 82A.100 during any year in which its only solicitations for contributions, donations, gifts or the like are:
   (a) Directed only to a total of fewer than 15 persons annually;
   (b) Directed only to persons who are related within the third degree of consanguinity or affinity to the officers, directors, trustees or executive personnel of the charitable organization;
   (c) Appeals for funds to benefit a particular person or his or her immediate family named in the solicitation, but only if all the proceeds of the solicitation are given to or expended for the direct benefit of the person or his or her immediate family; or
   (d) Conducted by an alumni association of an accredited institution which solicits only persons who have an established affiliation with the institution, including, without limitation, current and former students, members of the faculty or staff, or persons who are within the third degree of consanguinity or affinity of such persons.

2. A charitable organization that believes it is exempt from registration pursuant to this section must, before it solicits a charitable contribution in this State or has a charitable contribution solicited in this State on its behalf by another person, and annually thereafter, file a declaration of exemption on a form prescribed by the Secretary of State.

Sec. 5. NRS 82A.200 is hereby amended to read as follows:

82A.200 1. Except as otherwise provided in this section and NRS 82A.210, a solicitation for a contribution by, for or on behalf of a charitable organization or nonprofit organization, including, without limitation, a solicitation by means of electronic mail or other electronic medium or device, must disclose the following information:
   (a) The full legal name of the charitable organization or nonprofit organization as registered with the Secretary of State pursuant to this title;
   (b) If the charitable organization or nonprofit organization is not registered or not required to be registered with the Secretary of State pursuant to this title [the]

(1) The full legal name of the charitable organization or nonprofit organization; and [the]

(2) The physical address of [the principal]:
(I) The principal place of business of the charitable organization or nonprofit organization; or

(II) The custodian of financial records of the charitable organization or nonprofit organization, if the charitable organization or nonprofit organization does not have a physical address;

(c) [A published] One of the following:

(1) A phone number [or Internet address of a website] for the physical address of the principle place of business of the charitable organization or nonprofit organization [;]

or, if the charitable organization does not have a physical address, the phone number of the custodian of financial records of the charitable organization or nonprofit organization; or

(2) An Internet address of a website for the charitable organization or nonprofit organization;

(d) A statement or description of the purpose of the charitable organization or nonprofit organization; and

(e) A statement that the contribution:

(1) May be tax deductible [pursuant to the provisions of section 170(c) of the Internal Revenue Code of 1986, 26 U.S.C. § 170(c)], including a reference to the provision of law harboring the potential tax deduction; or

(2) [Does] May not qualify for such a federal tax deduction.

2. A solicitation for a contribution by, for or on behalf of a charitable organization or nonprofit organization by means of electronic medium or device, other than electronic mail, is deemed to comply with the requirements of subsection 1 if:

(a) The information required to be disclosed pursuant to subsection 1 may be obtained from an Internet website maintained by the charitable organization or nonprofit organization;

(b) The charitable organization or nonprofit organization provides a hyperlink to that Internet website; and

(c) The statement required by paragraph (e) of subsection 1 is located conspicuously on that Internet website or on the page of that Internet website where the donor commits to the [charitable] contribution.

3. A solicitation or pledge drive conducted by a charitable organization or nonprofit organization as part of a broadcast telethon, radiothon, webcast or any similar form of broadcast communication is not required to provide the disclosure required by this section throughout the broadcast event, but must disclose the information to a prospective donor before the donor commits or pledges to make a contribution.

4. A disclosure provided in connection with an appeal for funds to benefit a particular person or his or her immediate family must contain:

(a) The name of the particular person or family members who are to benefit from the appeal; and

(b) A statement that a contribution in response to the appeal may not qualify for a federal tax deduction.
Sec. 6. NRS 82A.300 is hereby amended to read as follows:

82A.300 1. If the Secretary of State finds that a charitable organization which is required to file the information and financial report required for registration pursuant to subsection 2 of NRS 82A.100 is soliciting contributions in this State, or is having contributions solicited in this State on its behalf by another person, without having filed the information and financial report required for registration on or before the due date for the filing established pursuant to subsection 3 of NRS 82A.100, the Secretary of State shall:

(a) If the charitable organization is required to file an annual list with the Secretary of State pursuant to this title, impose the penalty for default in the filing of an annual list set forth in the provisions of this title applicable to the charitable organization and notify the charitable organization of the violation by providing written notice to its registered agent. The notice:

(1) Must include a statement that the charitable organization is required to file the information and financial statement required for registration by subsection 2 of NRS 82A.100 and pay the penalty for default in the filing of an annual list set forth in the provisions of this title applicable to the charitable organization; and

(2) May be provided electronically.

(b) If the charitable organization is not required to file an annual list with the Secretary of State pursuant to this title, impose a penalty in the amount of $50 for the failure of the charitable organization to file the information and financial report required for registration as required pursuant to subsection 2 of NRS 82A.100 and notify the charitable organization of the violation by providing written notice to the charitable organization. The notice:

(1) Must include a statement indicating that the charitable organization is required to file the information and financial report required for registration by subsection 2 of NRS 82A.100 and pay the penalty as set forth in this paragraph; and

(2) May be provided electronically.

2. If a charitable organization fails to file the information and financial report required by subsection 2 of NRS 82A.100 and pay the penalty for default as set forth in this section within 90 days after the charitable organization or its registered agent receives the written notice provided pursuant to subsection 1, the Secretary of State may, in addition to imposing the penalty for default as set forth in this section, take any or all of the following actions:

(a) Impose a civil penalty of not more than $1,000.

(b) Issue an order to cease and desist soliciting contributions or having contributions solicited on behalf of the charitable organization by another person.

3. An action taken pursuant to subsection 2 is a final decision for the purposes of judicial review pursuant to chapter 233B of NRS.
4. If a charitable organization fails to pay a civil penalty imposed by the Secretary of State pursuant to subsection 2 or comply with an order to cease and desist issued by the Secretary of State pursuant to subsection 2, the Secretary of State may:

(a) If the charitable organization is organized pursuant to this title, revoke the charter of the charitable organization. If the charter of the charitable organization is revoked pursuant to this paragraph, the charitable organization forfeits its right to transact business in this State.

(b) If the charitable organization is [a foreign nonprofit charitable organization,] not organized pursuant to this title, forfeit the right [of the foreign nonprofit charitable organization] of the charitable organization to transact business in this State.

(c) Refer the matter to the Attorney General for a determination of whether to institute proceedings pursuant to NRS 82A.310.

Sec. 7. NRS 82A.310 is hereby amended to read as follows:

82A.310  1. If the Secretary of State believes that a person has violated any provision of this chapter, NRS 598.1305 or any other provision of the laws of this State governing the solicitation of [charitable] contributions, the Secretary of State shall notify the person in writing of the alleged violation.

2. The Secretary of State may refer an alleged violation of any provision of this chapter, NRS 598.1305 or any other provision of the laws of this State governing the solicitation of [charitable] contributions to the Attorney General for a determination of whether to institute proceedings in a court of competent jurisdiction to enforce the provisions of this chapter, NRS 598.1305 or any other provision of the laws of this State governing the solicitation of [charitable] contributions. The Attorney General may institute and prosecute the appropriate proceedings to enforce the provisions of this chapter, NRS 598.1305 or any other provision of the laws of this State governing the solicitation of [charitable] contributions.

3. In addition to any other penalty imposed by law, in a proceeding instituted by the Attorney General pursuant to subsection 2, the Attorney General may seek an injunction or other equitable relief and may recover a civil penalty of not more than $1,000 for each violation. If the Attorney General prevails in such a proceeding, the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney’s fees.

Sec. 8. NRS 598.1305 is hereby amended to read as follows:

598.1305  1. A person, in planning, conducting or executing a solicitation for or on behalf of a charitable organization or nonprofit corporation, shall not:

(a) Make any claim or representation concerning a contribution which directly, or by implication, has the capacity, tendency or effect of deceiving or misleading a person acting reasonably under the circumstances; or
(b) Omit any material fact deemed to be equivalent to a false, misleading or deceptive claim or representation if the omission, when considering what has been said or implied, has or would have the capacity, tendency or effect of deceiving or misleading a person acting reasonably under the circumstances.

2. Notwithstanding any other provisions of this chapter, the Attorney General has primary jurisdiction to investigate and prosecute a violation of this section.

3. Except as otherwise provided in NRS 41.480 and 41.485, a violation of this section constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

4. As used in this section:
   (a) “Charitable organization” means:
      (1) Means any person who, directly or indirectly, solicits contributions and who:
         (I) The Secretary of the Treasury has determined to be tax exempt pursuant to the provisions of section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3);
         (II) Is or purports to be established for any benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic or other eleemosynary purpose, or for the benefit of law enforcement, firefighting or other public safety personnel; or
         (III) In any manner employs a charitable appeal as the basis of any solicitation or an appeal that suggests there is a charitable reason for a solicitation.
      (2) Does not include an organization which is established for and serving bona fide religious purposes.
   (b) “Charitable reason” means:
      (1) Any reason described in section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3);
      (2) Any benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic or other eleemosynary reason; or
      (3) Any objective that benefits law enforcement, firefighting or other public safety personnel.
   (c) “Solicitation” means a request for a contribution to a charitable organization or nonprofit corporation that is made by any means, including, without limitation:
      (1) Mail;
      (2) Commercial carrier;
      (3) Telephone, facsimile, electronic mail or other electronic medium or device; or
      (4) A face-to-face meeting.
The term includes, without limitation, solicitations which are made from a location within this State and solicitations which are made from a location outside of this State to persons located in this State.

Sec. 9. NRS 82A.020 is hereby repealed.

TEXT OF REPEALED SECTION

82A.020 “Charitable contribution” defined. “Charitable contribution” means a contribution that is allowable as a tax deductible contribution pursuant to the provisions of section 170(c) of the Internal Revenue Code of 1986, 26 U.S.C. § 170(c), future amendments to that section and the corresponding provisions of future internal revenue laws.

Senator Scheible moved the adoption of the amendment.

Remarks by Senator Scheible.
(To be entered at a later date.)

Amendment adopted.
Bill read third time.
Remarks by Senator Cannizzaro.
(To be entered at a later date.)

Senate Bill No. 62.
Bill read third time.

Roll call on Senate Bill No. 62:
YEAS—18.
NAYS—Buck, Hansen, Settelmeyer—3.

Senate Bill No. 62 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 184.
Bill read third time.
Remarks by Senator Hardy.
(To be entered at a later date.)

Roll call on Senate Bill No. 184:
YEAS—21.
NAYS—None.

Senate Bill No. 184 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 218.
Bill read third time.
Remarks by Senators Ratti and Settelmeyer.

SENATOR RATTI:
(To be entered at a later date.)
Roll call on Senate Bill No. 218:
YEA—12.

Senate Bill No. 218 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 235.
Bill read third time.

The following amendment was proposed by the Committee on Revenue and Economic Development:
Amendment No. 389.

SUMMARY—Revises provisions relating to cannabis. (BDR 56-136)
AN ACT relating to cannabis; revising provisions relating to [limits on the number of] the acceptance of applications for and the issuance of adult-use cannabis establishment licenses [and medical cannabis establishment licenses that are authorized to be issued by] ; prohibiting the Cannabis Compliance Board [within a county, authorizing an adult-use cannabis retail store to acquire and sell cannabis for the] from issuing or renewing a medical [use of] cannabis [and medical cannabis products under certain circumstances; revising provisions relating to the excise tax on cannabis; establishing a process to allow certain holders of medical] establishment license on or after January 1, 2022; increasing certain fees for the issuance and renewal of an adult-use cannabis establishment [licenses for medical cannabis dispensaries to convert the] license [to an] ; deeming each adult-use cannabis establishment [license for an adult-use cannabis retail store under certain circumstances; providing for a fee for such a conversion] to be a dual licensee; revising provisions relating to the excise tax on cannabis; establishing a process to allow certain holders of a medical cannabis establishment license to be issued an adult-use cannabis establishment license; requiring the Board to submit a report to the Legislature containing certain recommendations; and providing other matters properly relating thereto.
Legislative Counsel’s Digest:
Existing law establishes different requirements for the [sales] cultivation, production and sale of cannabis and cannabis products depending upon whether the [seller] establishment engaged in such activities is an adult-use cannabis [retail store] establishment or a medical cannabis [dispensary] establishment (Chapters 678C and 678D of NRS) [For adult-use cannabis retail stores, existing law: (1) sets limits on the maximum THC level of adult-use cannabis products that are authorized to be sold in a single package; and (2) imposes an excise tax on each retail sale of cannabis or cannabis products by an adult-use cannabis retail store at the rate of 10 percent of the sales price]
of the cannabis or cannabis products. (NRS 372A.290, 678D.420) Medical cannabis products sold by a medical cannabis dispensary are not subject to the limits on the maximum THC levels for a single package applicable to adult-use cannabis products and sales of cannabis and cannabis products by a medical cannabis dispensary are not subject to the excise tax imposed on sales of an adult-use cannabis retail store. However, under existing law, medical cannabis dispensaries are generally prohibited from conducting sales of cannabis or cannabis products to a person who does not hold a registry identification card or a letter of approval. (NRS 678C.410)

Under existing law, a person who holds both an adult-use cannabis establishment license and a medical cannabis establishment license of the same type is a “dual licensee” and is generally authorized to combine the operations of the adult-use cannabis establishment and the medical cannabis establishment, subject to various requirements. (NRS 678A.145, 678C.410, 678C.430, 678D.430) Section 3.5 of this bill requires an adult-use cannabis retail store that is not a dual licensee that wishes to acquire and sell cannabis for the medical use of cannabis and medical cannabis products to submit a request to the Cannabis Compliance Board. If the Board approves the request, section 3 deems each adult-use cannabis establishment to be: (1) a dual licensee and authorizes the adult-use cannabis establishment to engage in activities relating to the medical use of cannabis to the same extent as if the adult-use cannabis establishment held a medical cannabis establishment license for a medical cannabis dispensary of the same type; and (2) subject to the same requirements imposed on a dual licensee. Section 4 of this bill exempts from the excise tax imposed on retail sales of cannabis or cannabis products by an adult-use cannabis retail store any sale of cannabis for the medical use of cannabis or a medical cannabis product to the holder of a registry identification card or letter of approval by an adult-use cannabis retail store deemed to be a dual licensee pursuant to section 3.5. Section 1.5 of this bill authorizes a local government to adopt an ordinance imposing restrictions on the activities of an adult-use cannabis establishment located within the jurisdiction of the local government that is a dual licensee which limit such activities to those relating to the medical use of cannabis.

Existing law provides for the issuance of adult-use cannabis establishment licenses and medical cannabis establishment licenses by the Board. (Chapter 678B of NRS) Section 1.8 of this bill prohibits the Board from issuing or renewing a medical cannabis establishment license for a medical cannabis dispensary on or after January 1, 2022. On or before June 1, 2022, submit an application to the Board to convert the license to an adult-use cannabis establishment license for an adult-use cannabis retail store. Section 5 requires the Board to adopt regulations governing such a conversion, including without limitation, the establishment of a fee for conversion. If the Board approves an application
Section 4.3 of this bill authorizes, with certain exceptions, a person who, on January 1, 2022, holds a medical cannabis establishment license for a medical cannabis dispensary and is issued an adult-use cannabis establishment license for an adult-use cannabis retail store.

Existing law imposes limits on the number of applications to submit an application to the Board upon the expiration of the medical cannabis establishment license for medical cannabis dispensaries that the Board is authorized to issue within a county. Section 4.3 requires the Board to issue to the person an adult-use cannabis establishment license for an adult-use cannabis retail store issued pursuant to section 5 is deemed to be of the same type. If the Board determines that the person would have been eligible to renew his or her medical cannabis establishment license for a medical cannabis dispensary for the purposes of those provisions. Similarly, section 2 of this bill provides that the provisions of existing law imposing a limit on the number of licenses for adult-use cannabis retail stores that may be issued by the Board within a county do not apply to an adult-use cannabis establishment license issued pursuant to section 5. Because section 3.5 deems each adult-use cannabis establishment to be a dual licensee, the person would be authorized to carry on the same activities relating to the medical use of cannabis to the same extent as under the person’s previous medical cannabis establishment license.

Sections 1.2-1.4 set forth certain requirements governing the acceptance of applications for and the issuance of adult-use cannabis establishment licenses. Section 1.3 of this bill requires the Board to conduct a study every 2 years of the market for cannabis and cannabis products in this State to determine whether the demands of the market necessitate the issuance of additional adult-use cannabis establishment licenses and, if additional licenses are necessary, how many additional licenses should be issued to satisfy such demands. If, based on the results of the study, the Board determines that additional licenses are necessary, section 1.3 requires the Board to accept applications for and issue such licenses in an amount the Board determines necessary to satisfy the demands of the market based on the results of the study. Section 4.6 of this bill requires the first such study to be completed not later than February 1, 2023, and also requires the Board to begin accepting applications not later than July 1, 2023, if necessary.

Existing law prohibits, with certain exceptions, the Board from accepting applications to operate a cannabis establishment for more than 10 business days in any 1 calendar year. Section 2.6 of this bill revises these provisions to prohibit the Board from accepting such applications for more than a total of 10 business days in the 2 calendar years following the completion of a study conducted pursuant to section 1.3 of this act.
Existing law sets forth a limit on the number of the adult-use cannabis establishment licenses for adult-use cannabis retail stores that the Board is authorized to issue in a county depending on the population of the county. (NRS 678B.260) Section 2 of this bill authorizes the Board to issue licenses in amounts that exceed those limits if the Board determines such action to be necessary based on the results of the study conducted pursuant to section 1.3.

Existing law requires the Board, in determining whether to issue an adult-use cannabis establishment license, to consider certain criteria of merit established by regulation of the Board. (NRS 678B.280) Section 2.3 of this bill requires such criteria of merit to include a consideration of whether the applicant is a “social equity applicant,” which section 1.2 defines generally to mean an applicant that has been adversely affected by previous laws that criminalized activity relating to cannabis. Section 2.3 further requires the Board, in determining the relative weight of each criteria of merit, to give additional positive weight for an applicant who is a social equity applicant. Section 1.4 of this bill requires the Board to adopt regulations establishing criteria to determine whether an applicant qualifies as a social equity applicant.

Existing law prohibits the Board, in a county whose population is 100,000 or more (currently Clark and Washoe Counties), from issuing more than a certain number of adult-use cannabis establishment licenses to any one person, group of persons or entity. (NRS 678B.270) Section 1.4 of this bill requires the Board to adopt regulations establishing additional limitations on the number of adult-use cannabis establishment licenses that may be issued to or held by any one person, group of persons or entity.

Existing law prohibits the Board from issuing an adult-use cannabis establishment license or medical cannabis establishment license if any of the proposed owners, officers or board members of the proposed cannabis establishment have been convicted of an excluded felony offense. (NRS 678B.210, 678B.250) Section 1.7 of this bill revises the definition of “excluded felony offense” to exclude from the definition certain felony offenses involving cannabis but not involving violence. (NRS 678B.050)

Section 2.9 of this bill increases fees for the issuance or renewal of an adult-use cannabis establishment to an amount that is equal to the amount set forth for such fees under existing law plus the amount for the issuance or renewal, as applicable, for a medical cannabis establishment license of the same type.

Section 4.9 of this bill requires the Board, on or before January 1, 2023, to submit a report to the Legislature with recommendations for legislation to consolidate the provisions of existing law governing the adult-use and the medical use of cannabis.

Section 1.6 of this bill makes a conforming change to properly place the new language added by section 1.2 in the Nevada Revised Statutes. Section 1.9 of this bill makes a conforming change to reflect the requirements and limitations
on the issuance of adult-use cannabis establishment licenses added by the provisions of sections 1.3 and 1.4 of this bill.

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

Section 1. [NRS 678B.220 is hereby amended to read as follows:

678B.220  1. Except as otherwise provided in this section and NRS 678B.230, the Board shall issue medical cannabis establishment licenses for medical cannabis dispensaries in the following quantities for applicants who qualify pursuant to NRS 678B.210:

(a) In a county whose population is 700,000 or more, 40 licenses;
(b) In a county whose population is 100,000 or more but less than 700,000, 10 licenses;
(c) In a county whose population is 55,000 or more but less than 100,000, two licenses;
(d) In each other county, one license; and
(e) For each incorporated city in a county whose population is less than 100,000, one license.

2. The Board:

(a) Shall not issue medical cannabis establishment licenses for medical cannabis dispensaries in such a quantity as to cause the existence within the applicable county of more than one medical cannabis dispensary for every 10 pharmacies that have been licensed in the county pursuant to chapter 639 of NRS. The Board may issue medical cannabis establishment licenses for medical cannabis dispensaries in excess of the ratio otherwise allowed pursuant to this paragraph if doing so is necessary to ensure that the Board issues at least one medical cannabis establishment license in each county of this State and, pursuant to paragraph (e) of subsection 1, each incorporated city of this State in which the Board has approved an application for such an establishment to operate.

(b) Shall, for any county for which no applicants qualify pursuant to NRS 678B.210, within 2 months after the end of the period during which the Board accepts applications pursuant to NRS 678B.300, reallocate the licenses provided for that county pursuant to subsection 1 to the other counties specified in subsection 1 in the same proportion as provided in subsection 1.

3. With respect to medical cannabis establishments that are not medical cannabis dispensaries, the Board shall:

(a) Issue a medical cannabis establishment license to at least one medical cannabis cultivation facility and at least one medical cannabis production facility in each county, and

(b) Determine the appropriate number of additional such establishments in each county as are necessary to serve and supply the medical cannabis dispensaries to which the Board has granted medical cannabis establishment licenses and issue such a number of medical cannabis establishment licenses for such establishments in each county,
An adult-use cannabis establishment license for an adult-use cannabis retail store issued by the Board pursuant to section 5 of this act shall be deemed to be a medical cannabis establishment license for a medical cannabis dispensary for the purposes of this section. (Deleted by amendment.)

Sec. 1.1. Chapter 678B of NRS is hereby amended by adding thereto the provisions set forth as sections 1.2 to 1.5, inclusive, of this act.

Sec. 1.2. “Social equity applicant” means an applicant for the issuance of an adult-use cannabis establishment license who has been adversely affected by provisions of previous laws which criminalized activities relating to cannabis, including, without limitation, adverse effects on an owner, officer, or board member of the applicant or on the geographic location in which the applicant will operate.

Sec. 1.3. (Deleted by amendment.)

Sec. 1.4. The Board shall adopt regulations setting forth procedures and requirements for the acceptance of applications for and the issuance of an adult-use cannabis establishment license. Such regulations are in addition to any requirements set forth in statute and must, without limitation:

1. Establish criteria to be used by Board for determining whether an applicant for the issuance of an adult-use cannabis establishment license qualifies as a social equity applicant;

2. Set forth procedures and requirements to ensure that all applicants for an adult-use cannabis establishment license have equal access to information relevant to the process of accepting applications for and issuing such licenses;
3. Establish a limit, in addition to the limits set forth in NRS 678B.270, on the number of adult-use cannabis establishment licenses that may be issued or held by any one person, group of persons or entity; and

4. Establish any other procedures and requirements that the Board determines are necessary to ensure that the process of accepting applications for and issuing an adult-use cannabis establishment license is fair, transparent and complies with all applicable laws.

Sec. 1.5. A local government may, pursuant to chapter 244, 268 or 278, adopt an ordinance imposing restrictions on the activities of an adult-use cannabis establishment located within the jurisdiction of the local government that is a dual licensee which limit such activities to those relating to the medical use of cannabis.

Sec. 1.6. NRS 678B.020 is hereby amended to read as follows:

678B.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 678B.030 to 678B.070, inclusive, and section 1.2 of this act have the meanings ascribed to them in those sections.

Sec. 1.6. NRS 678B.050 is hereby amended to read as follows:

678B.050 1. “Excluded felony offense” means a conviction of an offense that would constitute a category A felony if committed in this State or convictions for two or more offenses that would constitute felonies if committed in this State.

2. The term does not include:

(a) A criminal offense for which the sentence, including any term of probation, incarceration or supervised release, was completed more than 10 years ago;

(b) An offense involving conduct that would be immune from arrest, prosecution, or penalty pursuant to this title, except that the conduct occurred before October 1, 2001, or was prosecuted by an authority other than the State of Nevada;

(c) An offense involving conduct relating to cannabis but not involving the use or threatened use of force or violence against another person.

Sec. 1.6. NRS 678B.210 is hereby amended to read as follows:

678B.210 1. A person shall not engage in the business of a medical cannabis establishment unless the person holds a medical cannabis establishment license issued by the Board pursuant to this section.

2. A person who wishes to engage in the business of a medical cannabis establishment must submit to the Board an application on a form prescribed by the Board.

3. Except as otherwise provided in NRS 678B.220, 678B.230 and 678B.240, not later than 90 days after receiving an application to engage in the business of a medical cannabis establishment, the Board shall register the medical cannabis establishment and issue a medical cannabis establishment license and a random 20-digit alphanumeric identification number if:
(a) The person who wishes to operate the proposed medical cannabis establishment has submitted to the Board all of the following:

(1) The application fee, as set forth in NRS 678B.390;
(2) An application, which must include:
   (I) The legal name of the proposed medical cannabis establishment;
   (II) The physical address where the proposed medical cannabis establishment will be located and the physical address of any co-owned additional or otherwise associated medical cannabis establishments, the locations of which may not be within 1,000 feet of a public or private school that provides formal education traditionally associated with preschool or kindergarten through grade 12 and that existed on the date on which the application for the proposed medical cannabis establishment was submitted to the Board, within 300 feet of a community facility that existed on the date on which the application for the proposed medical cannabis establishment was submitted to the Board or, if the proposed medical cannabis establishment will be located in a county whose population is 100,000 or more, within 1,500 feet of an establishment that holds a nonrestricted gaming license described in subsection 1 or 2 of NRS 463.0177 and that existed on the date on which the application for the proposed medical cannabis establishment was submitted to the Board;
   (III) Evidence that the applicant controls not less than $250,000 in liquid assets to cover the initial expenses of opening the proposed medical cannabis establishment and complying with the provisions of this title;
   (IV) Evidence that the applicant owns the property on which the proposed medical cannabis establishment will be located or has the written permission of the property owner to operate the proposed medical cannabis establishment on that property;
   (V) For the applicant and each person who is proposed to be an owner, officer or board member of the proposed medical cannabis establishment, a complete set of the person’s fingerprints and written permission of the person authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and
   (VI) The name, address and date of birth of each person who is proposed to be an owner, officer or board member of the proposed medical cannabis establishment;
(3) Operating procedures consistent with rules of the Board for oversight of the proposed medical cannabis establishment, including, without limitation:
   (I) Procedures to ensure the use of adequate security measures; and
   (II) The use of an electronic verification system and an inventory control system pursuant to NRS 678C.420 and 678C.430;
(4) If the proposed medical cannabis establishment will sell or deliver medical cannabis products, proposed operating procedures for handling such products which must be preapproved by the Board;
(5) If the city or county in which the proposed medical cannabis establishment will be located has enacted zoning restrictions, proof that the proposed location is in compliance with those restrictions and satisfies all applicable building requirements; and

(6) Such other information as the Board may require by regulation;

(b) None of the persons who are proposed to be owners, officers or board members of the proposed medical cannabis establishment have been convicted of an excluded felony offense;

(c) None of the persons who are proposed to be owners, officers or board members of the proposed medical cannabis establishment have:

(1) Served as an owner, officer or board member for a cannabis establishment that has had its medical cannabis establishment license or adult-use cannabis establishment license revoked;

(2) Previously had a cannabis establishment agent registration card revoked; or

(3) Previously had a cannabis establishment agent registration card for a cannabis executive revoked; and

(d) None of the persons who are proposed to be owners, officers or board members of the proposed medical cannabis establishment are under 21 years of age.

4. For each person who submits an application pursuant to this section, and each person who is proposed to be an owner, officer or board member of a proposed medical cannabis establishment, the Board shall submit the fingerprints of the person to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to determine the criminal history of that person.

5. Except as otherwise provided in subsections 6 and 7, if an application for registration as a medical cannabis establishment satisfies the requirements of this section, is qualified in the determination of the Board pursuant to NRS 678B.200 and the establishment is not disqualified from being registered as a medical cannabis establishment pursuant to this section or other applicable law, the Board shall issue to the establishment a medical cannabis establishment license. A medical cannabis establishment license expires 1 year after the date of issuance and may be renewed upon:

(a) Submission of the information required by the Board by regulation; and

(b) Payment of the renewal fee set forth in NRS 678B.390.

6. In determining whether to issue a medical cannabis establishment license pursuant to this section, the Board shall consider the criteria of merit set forth in NRS 678B.240.

7. The Board shall not, on or after January 1, 2022, issue any additional medical cannabis establishment licenses or renew a medical cannabis establishment license pursuant to this section.

8. For the purposes of sub-subparagraph (II) of subparagraph (2) of paragraph (a) of subsection 3, the distance must be measured from the front
door of the proposed medical cannabis establishment to the closest point of the property line of a school, community facility or gaming establishment.

2. As used in this section, “community facility” means:
   (a) A facility that provides day care to children.
   (b) A public park.
   (c) A playground.
   (d) A public swimming pool.
   (e) A center or facility, the primary purpose of which is to provide recreational opportunities or services to children or adolescents.
   (f) A church, synagogue or other building, structure or place used for religious worship or other religious purpose.

Sec. 1.9. NRS 678B.250 is hereby amended to read as follows:

678B.250  1. A person shall not engage in the business of an adult-use cannabis establishment unless the person holds an adult-use cannabis establishment license issued pursuant to this section.

   2. A person who wishes to engage in the business of an adult-use cannabis establishment must submit to the Board an application on a form prescribed by the Board.

   3. Except as otherwise provided in NRS 678B.260, 678B.270 and 678B.280, and section 1.3 of this act and the regulations adopted pursuant to section 1.4 of this act, the Board shall issue an adult-use cannabis establishment license to an applicant if:

   (a) The person who wishes to operate the proposed adult-use cannabis establishment has submitted to the Board all of the following:

   (1) The application fee, as set forth in NRS 678B.390;

   (2) An application, which must include:

   (I) The legal name of the proposed adult-use cannabis establishment;

   (II) The physical address where the proposed adult-use cannabis establishment will be located and the physical address of any co-owned additional or otherwise associated adult-use cannabis establishments, the locations of which may not be within 1,000 feet of a public or private school that provides formal education traditionally associated with preschool or kindergarten through grade 12 and that existed on the date on which the application for the proposed adult-use cannabis establishment was submitted to the Board, within 300 feet of a community facility that existed on the date on which the application for the proposed adult-use cannabis establishment was submitted to the Board or, if the proposed adult-use cannabis establishment will be located in a county whose population is 100,000 or more, within 1,500 feet of an establishment that holds a nonrestricted gaming license described in subsection 1 or 2 of NRS 463.0177 and that existed on the date on which the application for the proposed adult-use cannabis establishment was submitted to the Board;

   (III) Evidence that the applicant controls liquid assets in an amount determined by the Board to be sufficient to cover the initial expenses of
opening the proposed adult-use cannabis establishment and complying with
the provisions of this title;

(IV) Evidence that the applicant owns the property on which the
proposed adult-use cannabis establishment will be located or has the written
permission of the property owner to operate the proposed adult-use cannabis
establishment on that property;

(V) For the applicant and each person who is proposed to be an owner,
officer or board member of the proposed adult-use cannabis establishment, a
complete set of the person’s fingerprints and written permission of the person
authorizing the Board to forward the fingerprints to the Central Repository for
Nevada Records of Criminal History for submission to the Federal Bureau of
Investigation for its report; and

(VI) The name, address and date of birth of each person who is
proposed to be an owner, officer or board member of the proposed adult-use
cannabis establishment;

(3) Operating procedures consistent with rules of the Board for oversight
of the proposed adult-use cannabis establishment, including, without
limitation:

(I) Procedures to ensure the use of adequate security measures; and

(II) The use of an inventory control system;

(4) If the proposed adult-use cannabis establishment will sell or deliver
adult-use cannabis products, proposed operating procedures for handling such
products which must be preapproved by the Board; and

(5) Such other information as the Board may require by regulation;

(b) None of the persons who are proposed to be owners, officers or board
members of the proposed adult-use cannabis establishment have been
convicted of an excluded felony offense;

(c) None of the persons who are proposed to be owners, officers or board
members of the proposed adult-use cannabis establishment have:

(1) Served as an owner, officer or board member for a cannabis
establishment that has had its adult-use cannabis establishment license or
medical cannabis establishment license revoked;

(2) Previously had a cannabis establishment agent registration card
revoked; or

(3) Previously had a cannabis establishment agent registration card for a
cannabis executive revoked; and

(d) None of the persons who are proposed to be owners, officers or board
members of the proposed adult-use cannabis establishment are under 21 years
of age.

4. For each person who submits an application pursuant to this section,
and each person who is proposed to be an owner, officer or board member of
a proposed adult-use cannabis establishment, the Board shall submit the
fingerprints of the person to the Central Repository for Nevada Records of
Criminal History for submission to the Federal Bureau of Investigation to determine the criminal history of that person.

5. Except as otherwise provided in subsection 6, if an applicant for licensure to operate an adult-use cannabis establishment satisfies the requirements of this section, is qualified in the determination of the Board pursuant to NRS 678B.200 and is not disqualified from being licensed pursuant to this section or other applicable law, the Board shall issue to the applicant an adult-use cannabis establishment license. An adult-use cannabis establishment license expires 1 year after the date of issuance and may be renewed upon:
   (a) Submission of the information required by the Board by regulation; and
   (b) Payment of the renewal fee set forth in NRS 678B.390.

6. In determining whether to issue an adult-use cannabis license pursuant to this section, the Board shall consider the criteria of merit set forth in NRS 678B.280.

7. For the purposes of sub-subparagraph (II) of subparagraph (2) of paragraph (a) of subsection 3, the distance must be measured from the front door of the proposed adult-use cannabis establishment to the closest point of the property line of a school, community facility or gaming establishment.

8. As used in this section, “community facility” means:
   (a) A facility that provides day care to children.
   (b) A public park.
   (c) A playground.
   (d) A public swimming pool.
   (e) A center or facility, the primary purpose of which is to provide recreational opportunities or services to children or adolescents.
   (f) A church, synagogue or other building, structure or place used for religious worship or other religious purpose.

Sec. 2. NRS 678B.260 is hereby amended to read as follows:
678B.260 1. Except as otherwise provided in this section and NRS 678B.270, the Board shall issue adult-use cannabis establishment licenses for the operation of adult-use cannabis retail stores in the following quantities for applicants who qualify pursuant to NRS 678B.250:
   (a) In a county whose population is 700,000 or more, 80 licenses;
   (b) In a county whose population is 100,000 or more but less than 700,000, 20 licenses;
   (c) In a county whose population is 55,000 or more but less than 100,000, four licenses; and
   (d) In a county whose population is less than 55,000, two licenses.

2. The Board shall, for any county for which no applicants qualify pursuant to NRS 678B.250, within 2 months after the end of the period during which the Board accepts applications pursuant to NRS 678B.300, reallocate the licenses provided for that county pursuant to subsection 1 to the other
counties specified in subsection 1 in the same proportion as provided in subsection 1.

3. The provisions of this section do not apply to an adult-use cannabis establishment license for the operation of an adult-use cannabis retail store issued by the Board pursuant to section 5 of this act. May, in any county, issue adult-use cannabis establishment licenses for the operation of adult-use cannabis retail stores in amounts that exceed the limits set forth in this section if the Board determines such action to be necessary based on a study conducted pursuant to section 1.3 of this act.

Sec. 2.3. NRS 678B.280 is hereby amended to read as follows:

678B.280 1. In determining whether to issue an adult-use cannabis establishment license pursuant to NRS 678B.250, the Board shall, in addition to the factors set forth in that section, consider criteria of merit established by regulation of the Board. Such criteria must include, without limitation:

(a) Whether the applicant controls liquid assets in an amount determined by the Board to be sufficient to cover the initial expenses of opening the proposed adult-use cannabis establishment and complying with the provisions of this title;

(b) Whether the owners, officers or board members of the proposed adult-use cannabis establishment have direct experience with the operation of a cannabis establishment in this State and have demonstrated a record of operating such an establishment in compliance with the laws and regulations of this State for an adequate period of time to demonstrate success;

(c) The educational and life experience of the persons who are proposed to be owners, officers or board members of the proposed adult-use cannabis establishment;

(d) Whether the applicant has an integrated plan for the care, quality and safekeeping of cannabis from seed to sale;

(e) The experience of key personnel that the applicant intends to employ in operating the type of adult-use cannabis establishment for which the applicant seeks a license;

(f) The diversity on the basis of race, ethnicity, [or] gender or geography of the applicant or the persons who are proposed to be owners, officers or board members of the proposed adult-use cannabis establishment, including, without limitation, the inclusion of persons of backgrounds which are disproportionately underrepresented as owners, officers or board members of adult-use cannabis establishments; [and]

(g) Whether the applicant is a social equity applicant; and

(h) Any other criteria of merit that the Board determines to be relevant.

2. The Board shall adopt regulations for determining the relative weight of each criteria of merit established by the Board pursuant to subsection 1. Such regulations must give additional positive weight for an applicant who is a social equity applicant.

Sec. 2.6. NRS 678B.300 is hereby amended to read as follows:
Except as otherwise provided in this section and subsection 3 of NRS 678B.220, the Board shall not, for more than a total of 10 business days in any 2 calendar years following the completion of the study conducted pursuant to section 1.3 of this act, accept applications to operate a cannabis establishment. The Board may by regulation prescribe longer periods in which it will accept applications to operate a cannabis establishment.

Sec. 2.9. NRS 678B.390 is hereby amended to read as follows:

Except as otherwise provided in subsection 2, the Board shall collect not more than the following maximum fees:

- For the initial issuance of a medical cannabis establishment license for a medical cannabis dispensary: $30,000
- For the renewal of a medical cannabis establishment license for a medical cannabis dispensary: $5,000
- For the initial issuance of a medical cannabis establishment license for a medical cannabis cultivation facility: $3,000
- For the renewal of a medical cannabis establishment license for a medical cannabis cultivation facility: $1,000
- For the initial issuance of a medical cannabis establishment license for a medical cannabis production facility: $3,000
- For the renewal of a medical cannabis establishment license for a medical cannabis production facility: $1,000
- For the initial issuance of a medical cannabis establishment license for a medical cannabis independent testing laboratory: $5,000
- For the renewal of a medical cannabis establishment license for a medical cannabis independent testing laboratory: $3,000
- For the initial issuance of an adult-use cannabis establishment license for an adult-use cannabis retail store: $20,000
- For the renewal of an adult-use cannabis establishment license for an adult-use cannabis retail store: $11,600
- For the initial issuance of an adult-use cannabis establishment license for an adult-use cannabis cultivation facility: $33,000
- For the renewal of an adult-use cannabis establishment license for an adult-use cannabis cultivation facility: $11,000
- For the initial issuance of an adult-use cannabis establishment license for an adult-use cannabis production facility: $13,000
- For the renewal of an adult-use cannabis establishment license for an adult-use cannabis production facility: $4,300
- For the initial issuance of an adult-use cannabis establishment license for an adult-use cannabis independent testing laboratory: $20,000
- For the renewal of an adult-use cannabis establishment license for an adult-use cannabis independent testing laboratory: $20,000
license for an adult-use cannabis independent testing laboratory ................................................................. 5,000
For the initial issuance of an adult-use cannabis establishment license for an adult-use cannabis distributor ......................... 15,000
For the renewal of an adult-use cannabis establishment license for an adult-use cannabis distributor ................................. 5,000
For each person identified in an application for the initial issuance of a cannabis establishment agent registration card ............... 150
For each person identified in an application for the renewal of a cannabis establishment agent registration card ..................... 150

2. In addition to the fees described in subsection 1, each applicant for a medical cannabis establishment license or adult-use cannabis establishment license must pay to the Board:
   (a) A one-time, nonrefundable application fee of $5,000; and
   (b) The actual costs incurred by the Board in processing the application, including, without limitation, conducting background checks.

3. Any revenue generated from the fees imposed pursuant to this section:
   (a) Must be expended first to pay the costs of the Board in carrying out the provisions of this title; and
   (b) If any excess revenue remains after paying the costs described in paragraph (a), such excess revenue must be paid over to the State Treasurer to be deposited to the credit of the State Education Fund.

Sec. 3. [Chapter 678D of NRS is hereby amended by adding thereto a new section to read as follows:

1. An adult-use cannabis retail store that is not a dual licensee may acquire and sell cannabis for the medical use of cannabis and medical cannabis products only as provided in this section.

2. An adult-use cannabis retail store described in subsection 1 that wishes to acquire and sell cannabis for the medical use of cannabis and medical cannabis products shall submit a request to the Board. Such a request must be submitted in the form and manner prescribed by the Board and contain any information the Board deems necessary.

3. Upon receipt of a request submitted pursuant to subsection 2, the Board shall review the request. If the Board approves the request, the Board shall provide written notice of the approval to the adult-use cannabis retail store that submitted the request.

4. An adult-use cannabis retail store whose request submitted pursuant to subsection 2 has been approved by the Board shall be deemed to be a dual licensee for the purposes of this title and, except as otherwise provided by regulation of the Board, may acquire and sell cannabis for the medical use of cannabis and medical cannabis products at the location of the adult-use cannabis retail store to the same extent and in the same manner as if the retail store also held a medical cannabis establishment license for a medical cannabis dispensary. The adult-use cannabis retail store shall comply with all
provisions of this title and the regulations adopted pursuant thereto applicable to a dual licensee and any other requirements governing the acquisition and sale of cannabis for the medical use of cannabis and medical cannabis products by the adult-use cannabis retail store that the Board may establish by regulation.

5. The Board may adopt any regulations necessary to carry out the provisions of this section, including, without limitation, regulations establishing additional requirements for the operation of an adult-use cannabis retail store that is deemed to be a dual licensee pursuant to this section.\(^\text{[Deleted by amendment.]}\)

Sec. 3.5. Chapter 678D of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each adult-use cannabis establishment shall be deemed to be a dual licensee for the purposes of this title and may engage in any activity relating to the medical use of cannabis in the same manner and to the same extent as if the adult-use cannabis establishment also held a medical cannabis establishment license of the same type for which the establishment holds an adult-use cannabis establishment license.

2. An adult-use cannabis establishment that engages in activities involving the medical use of cannabis pursuant to this section shall comply with all provisions of this title and the regulations adopted pursuant thereto applicable to a dual licensee, including, without limitation, any provision governing the specific activity relating to the medical use of cannabis in which the establishment is engaged.

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

Sec. 4. NRS 372A.290 is hereby amended to read as follows:

372A.290 1. An excise tax is hereby imposed on each wholesale sale in this State of cannabis by a medical cannabis cultivation facility to another cannabis establishment at the rate of 15 percent of the fair market value at wholesale of the cannabis. The excise tax imposed pursuant to this subsection is the obligation of the medical cannabis cultivation facility.

2. An excise tax is hereby imposed on each wholesale sale in this State of cannabis by an adult-use cannabis cultivation facility to another cannabis establishment at the rate of 15 percent of the fair market value at wholesale of the cannabis. The excise tax imposed pursuant to this subsection is the obligation of the adult-use cannabis cultivation facility.

3. Except as otherwise provided in subsection 8, an excise tax is hereby imposed on each retail sale in this State of cannabis or cannabis products by an adult-use cannabis retail store at the rate of 10 percent of the sales price of the cannabis or cannabis products. The excise tax imposed pursuant to this subsection:

(a) Is the obligation of the adult-use cannabis retail store.
(b) Is separate from and in addition to any general state and local sales and use taxes that apply to retail sales of tangible personal property.

4. The revenues collected from the excise tax imposed pursuant to subsection 1 must be distributed:
   (a) To the Cannabis Compliance Board and to local governments in an amount determined to be necessary by the Board to pay the costs of the Board and local governments in carrying out the provisions of chapter 678C of NRS; and
   (b) If any money remains after the revenues are distributed pursuant to paragraph (a), to the State Treasurer to be deposited to the credit of the State Education Fund.

5. The revenues collected from the excise tax imposed pursuant to subsection 2 must be distributed:
   (a) To the Cannabis Compliance Board and to local governments in an amount determined to be necessary by the Board to pay the costs of the Board and local governments in carrying out the provisions of chapter 678D of NRS; and
   (b) If any money remains after the revenues are distributed pursuant to paragraph (a), to the State Treasurer to be deposited to the credit of the State Education Fund.

6. For the purpose of subsections 4 and 5, a total amount of $5,000,000 of the revenues collected from the excise tax imposed pursuant to subsection 1 and the excise tax imposed pursuant to subsection 2 in each fiscal year shall be deemed sufficient to pay the costs of all local governments to carry out the provisions of chapters 678C and 678D of NRS. The Board shall, by regulation, determine the manner in which local governments may be reimbursed for the costs of carrying out the provisions of chapters 678C and 678D of NRS.

7. The revenues collected from the excise tax imposed pursuant to subsection 3 must be paid over as collected to the State Treasurer to be deposited to the credit of the State Education Fund.

8. The excise tax imposed pursuant to subsection 3 does not apply to a sale of cannabis for the medical use of cannabis or a medical cannabis product to the holder of a registry identification card or letter of approval by an adult-use cannabis retail store that has been deemed to be a dual licensee pursuant to section 3.5 of this act.

9. As used in this section:
   (a) “Adult-use cannabis cultivation facility” has the meaning ascribed to it in NRS 678A.025.
   (b) “Adult-use cannabis retail store” has the meaning ascribed to it in NRS 678A.065.
   (c) “Cannabis product” has the meaning ascribed to it in NRS 678A.120.
   (d) “Letter of approval” has the meaning ascribed to it in NRS 678C.070.
   (d) “Local government” has the meaning ascribed to it in NRS 360.640.
(e) “Medical cannabis cultivation facility” has the meaning ascribed to it in NRS 678A.170.
(f) “Medical cannabis establishment” has the meaning ascribed to it in NRS 678A.180.
(g) “Medical cannabis product” has the meaning ascribed to it in NRS 678A.200.
(h) “Medical use of cannabis” has the meaning ascribed to it in NRS 678A.215.
(i) “Registry identification card” has the meaning ascribed to it in NRS 678C.080.

Sec. 4.3. 1. Notwithstanding the provisions of section 1.3 of this act and except as otherwise provided in subsection 5, a person who, on January 1, 2022, holds a medical cannabis establishment license may, upon the expiration of the license, submit an application to the Board for the issuance of an adult-use cannabis establishment license of the same type.

2. An application submitted pursuant to subsection 1 must:
   (a) Contain the same information as required for the renewal of a medical cannabis establishment license pursuant to NRS 678B.210; and
   (b) Be accompanied by a fee in an amount that is equal to the fee for the renewal of an adult-use cannabis establishment license of the same type as that of the medical cannabis establishment license which has expired, as set forth in NRS 678B.390, as amended by section 2.9 of this act.

3. If the Board determines that the applicant would have been eligible to renew the medical cannabis establishment license which has expired, the Board shall issue to the applicant an adult-use cannabis establishment license of the same type.

4. An adult-use cannabis establishment license issued by the Board pursuant to this section shall be deemed to be an adult-use cannabis establishment license issued by the Board pursuant to NRS 678B.250.

5. A person who, on January 1, 2022, holds both an adult-use cannabis establishment license and a medical cannabis establishment license may not, pursuant to this section, apply for or be issued an additional adult-use cannabis establishment license upon the expiration of the medical cannabis establishment license of the person.

6. As used in this section:
   (a) “Adult-use cannabis establishment license” has the meaning ascribed to it in NRS 678A.040.
   (b) “Board” means the Cannabis Compliance Board.
   (c) “Medical cannabis establishment license” has the meaning ascribed to it in NRS 678A.185.

Sec. 4.6. 1. The Board shall complete a study of the market for cannabis and cannabis products in this State as required by section 1.3 of this act not later than February 1, 2023.
2. If, based on the results of the study conducted pursuant to subsection 1, the Board determines that the demands of the market for cannabis and cannabis products in this State necessitate the issuance of additional adult-use cannabis establishment licenses, the Board shall:
   (a) Begin accepting applications for the issuance of licenses as required by section 1.3 of this act not later than July 1, 2023; and
   (b) Issue adult-use cannabis establishment licenses in accordance with the requirements set forth in section 1.3 of this act.

Sec. 4.9. The Cannabis Compliance Board shall, on or before January 1, 2023, submit to the Director of the Legislative Counsel Bureau for transmittal to the 82nd Session of the Legislature a report with recommendations for legislation to consolidate the provisions of chapters 678C and 678D of NRS.

Sec. 5. (1) Any person who, on January 1, 2022, holds a medical cannabis establishment license for a medical cannabis dispensary but does not hold an adult-use cannabis establishment license for an adult-use cannabis retail store may, on or before June 1, 2022, submit an application to the Board to convert the medical cannabis establishment license for a medical cannabis dispensary to an adult-use cannabis establishment license for an adult-use cannabis retail store.

   (2) An application submitted pursuant to subsection 1 must:
          (a) Be submitted on a form prescribed by the Board;
          (b) Contain any information the Board may by regulation require; and
          (c) Be accompanied by a fee in an amount established by regulation of the Board.

   (3) If the Board approves an application submitted pursuant to subsection 1, the approved applicant shall surrender his or her medical cannabis establishment license for a medical cannabis dispensary. Upon surrender of the license, the Board shall issue to the approved applicant an adult-use cannabis establishment license for an adult-use cannabis retail store.

   (4) Except as otherwise provided in NRS 678.220, as amended by section 1 of this act, and NRS 678B.260, as amended by section 2 of this act, an adult-use cannabis establishment license for an adult-use cannabis retail store issued pursuant to this section shall be deemed to be an adult-use cannabis establishment license for an adult-use cannabis retail store issued by the Board pursuant to NRS 678B.250.

   (5) The Board shall adopt regulations necessary to carry out the provisions of this section. The regulations must, without limitation:
          (a) Prescribe the form and required contents for an application submitted to pursuant to subsection 1;
          (b) Prescribe the manner in which an application may be approved or denied; and
          (c) Establish a fee for the conversion of a license pursuant to this section in an amount the Board determines necessary to cover the costs of carrying out the provisions of this section.
5. As used in this section:
   (a) “Adult-use cannabis establishment license” has the meaning ascribed to it in NRS 678A.040.
   (b) “Adult-use cannabis retail store” has the meaning ascribed to it in NRS 678A.065.
   (c) “Board” means the Cannabis Compliance Board created by NRS 678A.350.
   (d) “Medical cannabis dispensary” has the meaning ascribed to it in NRS 678A.175.
   (e) “Medical cannabis establishment license” has the meaning ascribed to it in NRS 678A.185.  

Sec. 6. 1. This section becomes effective upon passage and approval.
2. Sections 1 to 5, inclusive, of this act become effective:
   (a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and
   (b) On January 1, 2022, for all other purposes.

Senator Neal moved the adoption of the amendment.
Remarks by Senator Neal.
(To be entered at a later date.)

Conflict of interest declared by Senator Ohrenschall.
Amendment adopted.

Senator Brooks moved that the bill be re-referred to the Committee on Finance, upon return from reprint.

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

Senate Bill No. 263.
Bill read third time.
Remarks by Senator Settelmeyer.
(To be entered at a later date.)

Roll call on Senate Bill No. 263:
YEAS—21.
NAYS—None.

Senate Bill No. 263 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 269.
Bill read third time.
Remarks by Senator Kieckhefer.
(To be entered at a later date.)

Roll call on Senate Bill No. 269:
YEAS—21.
NAYS—None.
Senate Bill No. 269 having received a constitutional majority, Madam President declared it passed. Bill ordered transmitted to the Assembly.

Senate Bill No. 275. Bill read third time. Remarks by Senators Harris, Kieckhefer and Hardy.

SENATOR HARRIS:
(To be entered at a later date.)

SENATOR KIECKHEFER:
(To be entered at a later date.)

SENATOR HARDY:
(To be entered at a later date.)

Roll call on Senate Bill No. 275:
YEAS—21.
NAYS—None.

Senate Bill No. 275 having received a constitutional majority, Madam President declared it passed, as amended. Bill ordered transmitted to the Assembly.

Senate Bill No. 288. Bill read third time. The following amendment was proposed by the Committee on Growth and Infrastructure:

Amendment No. 484.
SUMMARY—Revises provisions relating to transportation network companies. (BDR 58-935)

AN ACT relating to transportation; authorizing a monitored autonomous vehicle provider to enter into an agreement with a transportation network company to provide transportation services through the digital network or software application of the company; imposing certain requirements on a transportation network company and monitored autonomous vehicle provider relating to the provision of transportation services by a monitored autonomous vehicle provider; authorizing a transportation network company to charge a fare for such services on behalf of a monitored autonomous vehicle provider; prohibiting a local governmental entity from imposing certain taxes or fees relating to such services; revising provisions relating to transportation network company insurance; and providing other matters properly relating thereto.
Legislative Counsel’s Digest:

Existing law provides for the permitting and regulation of transportation network companies by the Nevada Transportation Authority. (Chapter 706A of NRS) Existing law defines “transportation network company” to mean an entity that uses a digital network or software application to connect a passenger to a driver who can provide transportation services to a passenger. (NRS 706.050) This bill revises various provisions of existing law governing transportation network companies for the purpose of authorizing [such companies, under certain circumstances, to use] a monitored autonomous vehicle provider to provide transportation services to a passenger [who has arranged for such services] through the digital network or software application of [the] a transportation network company [.] in the same manner and generally subject to the same requirements as a driver.

Section 2 of this bill defines “monitored autonomous vehicle” generally to mean an autonomous vehicle in which a safety engineer is physically present at all times during the operation of the vehicle to ensure the safety of such operations. [Section 22 of this bill provides that a monitored autonomous vehicle is not a fully autonomous vehicle for the purposes of provisions of existing law governing autonomous vehicle network companies.] Section 3 of this bill defines “monitored autonomous vehicle provider” as a person who: (1) owns and operates a monitored autonomous vehicle; and (2) enters into an agreement with a transportation network company to receive connections to potential passengers and related services from the transportation network company in exchange for the payment of a fee to the transportation network company.

Section 5 of this bill authorizes a transportation network company to enter into an agreement with one or more monitored autonomous vehicle providers to [allow] receive connections to potential passengers from the company [to use a monitored autonomous vehicle of the provider to provide transportation services.] in exchange for the payment of a fee to the company. Section 5 also provides that a safety engineer employed by a monitored autonomous vehicle provider who has entered into such an agreement is authorized to accept compensation for his or her services only from the monitored autonomous vehicle provider by which he or she is employed.

Section 13.3 of this bill provides that the provisions of this bill relating to monitored autonomous vehicle providers and monitored autonomous vehicles do not apply to an autonomous vehicle network company or a fully autonomous vehicle operated by such a company. Section 13.6 of this bill provides that a monitored autonomous vehicle operated by a monitored autonomous vehicle provider is not a commercial vehicle.

Section 14 of this bill prohibits, with certain exceptions, a transportation network company from controlling, directing or managing a monitored autonomous vehicle provider or a monitored autonomous vehicle operated by such a provider. Section 14.5 of this bill prohibits a monitored autonomous
vehicle provider from providing transportation services unless the transportation network company with which the provider is affiliated holds a permit issued by the Authority.

Section 15 of this bill [provides that] authorizes a transportation network company that holds a permit issued by the Authority to [operate a transportation network company authorizes a holder who has entered into an agreement pursuant to section 5 to provide transportation services to passengers using] take certain actions with respect to a monitored autonomous vehicle [that is owned and operated by a monitored autonomous vehicle provider. Sections 12 and 13 of this bill, respectively, revise the definitions of “transportation network company” and “transportation services” to reflect the authority of a monitored autonomous vehicle provider to provide transportation services pursuant to an agreement with a transportation network company to provide transportation services using a monitored autonomous vehicle as provided by section 15.

Existing law prohibits, with certain exceptions, a transportation network company from controlling, directing or managing a driver or the motor vehicle operated by a driver. (NRS 706A.090) Section 14 of this bill authorizes a transportation network company that has entered into an agreement with a monitored autonomous vehicle provider pursuant to section 5 to control, direct or manage a monitored autonomous vehicle of the provider.

Section 6 of this bill prohibits a transportation network company from using a monitored autonomous vehicle to provide transportation services unless, in addition to certain other requirements, the vehicle is owned and operated by a monitored autonomous vehicle provider with whom the company has entered an agreement pursuant to section 5.

Section 19 of this bill requires a transportation network company to maintain certain records concerning accidents and other incidents involving monitored autonomous vehicle providers. Section 19.3 of this bill authorizes a transportation network company to disclose certain information concerning passengers to a monitored autonomous vehicle provider. Section 19.5 of this bill requires a transportation network company that has entered into an agreement pursuant to section 5 to submit certain reports to the Authority concerning motor vehicle crashes involving monitored autonomous vehicles.

Section 10 of this bill requires such a transportation network company to maintain certain insurance for tort liabilities arising out of the provision of transportation services using a monitored autonomous vehicle. Section 19 of this bill requires such a transportation network company to maintain certain records concerning accidents and other incidents involving monitored autonomous vehicle providers.

Section 17.5 of this bill requires a transportation network company, when using a monitored autonomous vehicle to provide transportation services, to provide the license plate number of the monitored autonomous vehicle to a passenger before he or she enters the vehicle.
Section 16 of this bill revises provisions of existing law governing fares charged by a transportation network company for the purpose of authorizing a transportation network company to charge a fare for transportation services provided by a monitored autonomous vehicle provider on behalf of the provider. (NRS 706A.170) Section 16.5 of this bill imposes certain requirements relating to the condition and inspection of a monitored autonomous vehicle used to provide transportation services. Sections 17 and 18 of this bill revise provisions of existing law which impose certain requirements on the provision of transportation services by a driver to apply such requirements to the provision of transportation services by a transportation network company using a monitored autonomous vehicle provider. (NRS 706A.190, 706A.210)

Section 20 of this bill authorizes the Authority to impose certain penalties on a transportation network company or monitored autonomous vehicle provider for a violation of the terms of a permit or the provisions of existing law governing transportation network companies if the Authority determines that the violation is willful and endangers public safety. (NRS 706A.300) Section 20 of this bill specifies that to impose such a penalty, the violation is required to endanger public safety in a manner unrelated to certain provisions of existing law governing autonomous vehicles. Certain violations.

Section 21 of this bill prohibits a local governmental entity from imposing any tax or fee on a monitored autonomous vehicle provider or a monitored autonomous vehicle used by such a transportation network company provider to provide transportation services or on the transportation services provided using such a vehicle.

Existing law requires a transportation network company or driver to continuously provide, during any period in which the driver is providing transportation services, transportation network company insurance for the payment of tort liabilities arising from the operation of a motor vehicle by a driver. (NRS 690B.470) Existing law imposes various requirements relating to such transportation network company insurance. (NRS 690B.400-690B.495) Sections 22.2, 22.3, 22.5 and 22.7-22.9 of this bill impose, with certain exceptions, these same requirements on a monitored autonomous vehicle provider and a transportation network company affiliated with a monitored autonomous vehicle provider.

Sections 11, 22.4 and 22.6 of this bill make conforming changes to indicate the proper placement of new provisions in the Nevada Revised Statutes.
THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 706A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. “Monitored autonomous vehicle” means an autonomous vehicle, as defined in NRS 482A.030, in which a safety engineer is physically present at all times during the operation of the vehicle to ensure the safety of such operations.

Sec. 3. “Monitored autonomous vehicle provider” means a person who

1. Owns and operates a monitored autonomous vehicle; and

2. Enters into an agreement with a transportation network company to receive connections to potential passengers and related services from a transportation network company to use a monitored autonomous vehicle that is owned and operated by the person to provide transportation services to passengers who arrange for such services through the digital network or software application of the company in exchange for the payment of a fee to the transportation network company.

Sec. 4. “Safety engineer” means a person employed by a monitored autonomous vehicle provider to remain physically present in a monitored autonomous vehicle at all times during the operation of the vehicle to ensure the safety of such operations.

Sec. 5. 1. A transportation network company may enter into an agreement with one or more monitored autonomous vehicle providers to receive connections to potential passengers from the company to use a monitored autonomous vehicle which is owned and operated by the provider to provide transportation services to passengers who arrange for such services through the digital network or software application of the company in exchange for the payment of a fee by the monitored autonomous vehicle provider to the company.

2. A safety engineer employed by a monitored autonomous vehicle provider which has entered into an agreement with a transportation network company pursuant to subsection 1 may only accept compensation for his or her services from the monitored autonomous vehicle provider by which he or she is employed.

Sec. 6. 1. A transportation network company shall not provide transportation services to a passenger using a monitored autonomous vehicle unless the monitored autonomous vehicle is:

(a) Owned and operated by a monitored autonomous vehicle provider with whom the transportation network company has entered an agreement pursuant to section 5 of this act; and

(b) In compliance with the requirements of chapter 482A of NRS.

2. A transportation network company shall inspect or cause to be inspected every monitored autonomous vehicle used to provide transportation services to passengers through the digital network or software application of the company and shall pass such inspection to the transportation network company before the vehicle may be used to provide transportation services to passengers through the digital network or software application of the company.
services before using the monitored autonomous vehicle to provide transportation services and not less than once each year thereafter.

2. The inspection required by subsection 2 must ensure the proper functioning and safety of the monitored autonomous vehicle pursuant to chapter 482A of NRS and any applicable federal law or regulation. (Deleted by amendment.)

Sec. 7. For each instance in which a transportation network company uses a monitored autonomous vehicle to provide transportation services to a passenger, the company shall provide to the passenger, before the passenger enters the monitored autonomous vehicle, the license plate number of the monitored autonomous vehicle. The information required by this section must be provided to the passenger:

1. On an Internet website maintained by the company; or

2. Within the digital network or software application service of the company. (Deleted by amendment.)

Sec. 8. Each transportation network company that has entered into an agreement with a monitored autonomous vehicle provider pursuant to section 5 of this act shall provide to the Authority reports containing information relating to motor vehicle crashes which occurred in this State while the company was providing transportation services using a monitored autonomous vehicle. The reports required by this subsection must contain the information identified in subsection 2 and be submitted:

(a) For all crashes that occur during the first 6 months that the company operates within this State, not later than 7 months after the date the company was issued a permit.

(b) For all crashes that occur during the first 12 months that the company operates within this State, not later than 13 months after the date the company was issued a permit.

3. The reports submitted pursuant to subsection 1 must include, for the period of time specified in subsection 1:

(a) The number of motor vehicle crashes which occurred in this State involving a monitored autonomous vehicle that provides transportation services on behalf of the transportation network company;

(b) The highest, lowest and average amount paid by the transportation network company for bodily injury or death to one or more persons that occurred as a result of such a crash; and

(c) The highest, lowest and average amount paid by the transportation network company for damage to property that occurred as a result of such a crash.

3. Except as otherwise provided in this subsection, any records provided to the Authority are confidential and must not be disclosed other than to employees of the Authority. The Authority shall collect the reports submitted by transportation network companies pursuant to subsection 1 and determine whether the limits of coverage required pursuant to section 10 of this act are
sufficient. The Authority shall submit a report stating whether the limits of coverage required pursuant to section 10 of this act are sufficient and containing the information, in an aggregated format which does not reveal the identity of any person, submitted by transportation network companies pursuant to subsection 1 since the last report of the Authority pursuant to this subsection:

(a) To the Legislative Commission on or before December 1 of each odd-numbered year.

(b) To the Director of the Legislative Counsel Bureau for transmittal to the Legislature on or before December 1 of each even-numbered year. [Deleted by amendment.]

Sec. 9. 1. With respect to a passenger’s destination when using a monitored autonomous vehicle provided by a transportation network company, a transportation network company shall not:

(a) Deceive or attempt to deceive any passenger who rides or desires to ride in the vehicle.

(b) Convey or attempt to convey any passenger to a destination other than the one directed by the passenger.

(c) Take a longer route to the passenger’s destination than is necessary, unless specifically requested to do so by the passenger.

2. The Authority shall not consider any action taken by a monitored autonomous vehicle which is consistent with its operational design domain, as defined in NRS 482A.046, or technological capabilities as a violation of subsection 1.

3. As used in this section, “longer route to the passenger’s destination” means any route other than that which would result in the lowest fare to the passenger. [Deleted by amendment.]

Sec. 10. Each transportation network company that has entered into an agreement with a monitored autonomous vehicle provider pursuant to section 5 of this act shall maintain insurance provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State or a broker licensed pursuant to chapter 685A of NRS, procured directly from a nonadmitted insurer, as defined in NRS 685A.0375, or a program of self-insurance which meets criteria established by the Authority in an amount of $1,500,000 or more for bodily injury to or death of one or more persons and injury to or destruction of property of others in any one accident or motor vehicle crash that occurs while providing transportation services using a monitored autonomous vehicle pursuant to this chapter. [Deleted by amendment.]

Sec. 10.5. NRS 706A.010 is hereby amended to read as follows:

706A.010 It is hereby declared to be the purpose and policy of the Legislature in enacting this chapter to ensure the safety, reliability and cost-effectiveness of the transportation services provided by drivers and monitored
autonomous vehicle providers affiliated with transportation network companies in this State.

Sec. 11. NRS 706A.020 is hereby amended to read as follows:

706A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 706A.030 to 706A.060, inclusive, and sections 2, 3 and 4 of this act have the meanings ascribed to them in those sections.

Sec. 12. NRS 706A.050 is hereby amended to read as follows:

706A.050 “Transportation network company” or “company” means an entity that uses a digital network or software application service to connect a passenger to a driver or monitored autonomous vehicle provider who can provide transportation services to the passenger.

Sec. 13. NRS 706A.060 is hereby amended to read as follows:

706A.060 “Transportation services” means the transportation by a driver or monitored autonomous vehicle provider of one or more passengers between points chosen by the passenger or passengers and prearranged through the use of the digital network or software application service of a transportation network company. The term includes only the period beginning when a driver or a transportation network company monitored autonomous vehicle provider accepts a request by a passenger for transportation through the digital network or software application service of a transportation network company and ending when the last such passenger fully disembarks from the motor vehicle operated by the driver or the monitored autonomous vehicle operated by the transportation network company operated by the monitored autonomous vehicle provider.

Sec. 13.3. NRS 706A.075 is hereby amended to read as follows:

706A.075 1. Except as otherwise provided in subsection 2, the provisions of this chapter do not exempt any person from any law governing the operation of a motor vehicle upon the highways of this State.

2. A transportation network company which holds a valid permit issued by the Authority pursuant to this chapter, a driver or monitored autonomous vehicle provider who has entered into an agreement with such a company and a vehicle or monitored autonomous vehicle operated by such a driver or monitored autonomous vehicle provider are exempt from:

(a) The provisions of chapter 704 of NRS relating to public utilities; and

(b) Except as otherwise provided in NRS 706.88396, the provisions of chapter 706 of NRS, to the extent that the services provided by the company or driver or monitored autonomous vehicle provider are within the scope of the permit.

3. The provisions of this chapter relating to monitored autonomous vehicles and monitored autonomous vehicle providers do not apply to an
autonomous vehicle network company which has been issued a permit pursuant to NRS 706B.130 or to a fully autonomous vehicle operated by such a company.

Sec. 13.6. NRS 706A.080 is hereby amended to read as follows:

706A.080 Nothing in this chapter shall be construed to deem a motor vehicle operated by a driver to provide transportation services or a monitored autonomous vehicle operated by a monitored autonomous vehicle provider to provide transportation services to be a commercial motor vehicle.

Sec. 14. NRS 706A.090 is hereby amended to read as follows:

706A.090 (1) Except as otherwise provided in this chapter and the regulations adopted pursuant thereto or by a written contract between a transportation network company and a driver or monitored autonomous vehicle provider, a company shall not control, direct or manage:

1. A driver or the motor vehicle operated by a driver;

2. A transportation network company that has entered into an agreement with a monitored autonomous vehicle provider pursuant to section 5 of this act may control, direct or manage or any monitored autonomous vehicle that is owned and operated by the a monitored autonomous vehicle provider.

Sec. 14.5. NRS 706A.110 is hereby amended to read as follows:

706A.110 1. A transportation network company shall not engage in business in this State unless the company holds a valid permit issued by the Authority pursuant to this chapter.

2. A driver or monitored autonomous vehicle provider shall not provide transportation services unless the company with which the driver or monitored autonomous vehicle provider is affiliated holds a valid permit issued by the Authority pursuant to this chapter.

3. The Authority is authorized and empowered to regulate, pursuant to the provisions of this chapter, all transportation network companies, drivers and monitored autonomous vehicle providers who operate or wish to operate within this State. Except as otherwise provided in NRS 706.88396, the Authority shall not apply any provision of chapter 706 of NRS to a transportation network company or driver or monitored autonomous vehicle provider who operates within the provisions of this chapter and the regulations adopted pursuant thereto.

Sec. 15. NRS 706A.130 is hereby amended to read as follows:

706A.130 1. Upon receipt of a completed application and upon a determination by the Authority that an applicant meets the requirements for the issuance of a permit to operate a transportation network company, the Authority shall issue to the applicant within 30 days a permit to operate a transportation network company in this State.

2. In accordance with the provisions of this chapter, a permit issued pursuant to this section:
(a) Authorizes a transportation network company to connect one or more passengers through the use of a digital network or software application service to a driver or monitored autonomous vehicle provider who can provide transportation services.

(b) Authorizes a transportation network company to make its digital network or software application service available to one or more drivers or monitored autonomous vehicle providers to receive connections to potential passengers from the company in exchange for the payment of a fee by the driver or monitored autonomous vehicle provider to the company.

(c) Authorizes a transportation network company that has entered into an agreement with a monitored autonomous vehicle provider pursuant to section 5 of this act to use a monitored autonomous vehicle which is owned and operated by the provider to provide transportation services to one or more passengers who arrange for such services through the digital network or software application of the company.

(d) Except as otherwise provided in NRS 706.88396, does not authorize a transportation network company or any driver or monitored autonomous vehicle provider to engage in any activity otherwise regulated pursuant to chapter 706 of NRS other than the activity authorized by this chapter.

3. Nothing in this chapter prohibits the issuance of a permit to operate a transportation network company to a person who is regulated pursuant to chapter 706 of NRS if the person submits an application pursuant to NRS 706A.120 and meets the requirements for the issuance of a permit.

Sec. 16. NRS 706A.170 is hereby amended to read as follows:

706A.170 1. In accordance with the provisions of this chapter, a transportation network company which holds a valid permit issued by the Authority pursuant to this chapter may,

(a) On behalf of a driver or monitored autonomous vehicle provider, charge a fare for transportation services provided to a passenger by the driver.

(b) Charge a fare for transportation services provided to a passenger by the company using a monitored autonomous vehicle or monitored autonomous vehicle provider.

2. If a fare is charged, the company must disclose the rates charged by the company and the method by which the amount of a fare is calculated:

(a) On an Internet website maintained by the company; or

(b) Within the digital network or software application service of the company.

3. If a fare is charged, the company must offer to each passenger the option to receive, before the passenger enters the motor vehicle of a driver or the monitored autonomous vehicle used by the company, an estimate of the amount of the fare that will be charged to the passenger.
4. A transportation network company may accept payment of a fare only electronically. A transportation network company, or a driver or monitored autonomous vehicle provider shall not solicit or accept cash as payment of a fare.

5. A transportation network company shall not impose any additional charge for a driver or monitored autonomous vehicle provider who provides transportation services to a person with a physical disability because of the disability.

6. The Authority may adopt regulations establishing a maximum fare that may be charged during an emergency, as defined in NRS 414.0345.

Sec. 16.5. NRS 706A.180 is hereby amended to read as follows:

706A.180  1. A transportation network company shall not allow a driver or monitored autonomous vehicle provider to be connected to potential passengers using the digital network or software application service of the company if the motor vehicle operated by the driver or the monitored autonomous vehicle operated by the monitored autonomous vehicle provider to provide transportation services:
(a) Is not in compliance with all federal, state and local laws concerning the operation and maintenance of the motor vehicle.
(b) Has less than four doors.
(c) Is designed to carry more than eight passengers, including the driver.
(d) Is a farm tractor, mobile home, recreational vehicle, semitractor, semitrailer, trailer, bus, motorcycle or tow car.

2. A transportation network company shall inspect or cause to be inspected every motor vehicle used by a driver to provide transportation services and every monitored autonomous vehicle used by a monitored autonomous vehicle provider to provide transportation services before allowing the driver to use the motor vehicle or the monitored autonomous vehicle provider to use the monitored autonomous vehicle to provide transportation services and not less than once each year thereafter.

3. The inspection required by subsection 2 must include, without limitation, an inspection of the foot and emergency brakes, steering, windshield, rear window, other glass, windshield wipers, headlights, tail lights, turn indicator lights, braking lights, front seat adjustment mechanism, doors, horn, speedometer, bumpers, muffler, exhaust, tires, rear view mirrors and safety belts of the vehicle which ensures the proper functioning of each component.

Sec. 17. NRS 706A.190 is hereby amended to read as follows:

706A.190  1. A transportation network company shall adopt a policy which prohibits discrimination against a passenger or potential passenger on account of national origin, religion, age, disability, sex, race, color, sexual orientation or gender identity or expression.
2. A driver or monitored autonomous vehicle provider shall not discriminate against a passenger or potential passenger on account of national origin, religion, age, disability, sex, race, color, sexual orientation or gender identity or expression.

3. A transportation network company shall provide to each passenger an opportunity to indicate whether the passenger requires transportation in a motor vehicle or monitored autonomous vehicle that is wheelchair accessible. If the company cannot provide the passenger with transportation services in a motor vehicle or monitored autonomous vehicle that is wheelchair accessible, the company must direct the passenger to an alternative provider or means of transportation that is wheelchair accessible, if available.

Sec. 17.5. NRS 706A.200 is hereby amended to read as follows:

706A.200. 1. For each instance in which a driver or monitored autonomous vehicle provider provides transportation services to a passenger, the transportation network company which connected the passenger to the driver or monitored autonomous vehicle provider shall provide to the passenger, before the passenger enters the motor vehicle of a driver or the monitored autonomous vehicle of a monitored autonomous vehicle provider, as applicable:

(a) A photograph of the driver who will provide the transportation services and the license plate number of the motor vehicle operated by the driver.

(b) The license plate number of the monitored autonomous vehicle operated by the monitored autonomous vehicle provider.

2. The information required by subsection 1 must be provided to the passenger:

(a) On an Internet website maintained by the company; or

(b) Within the digital network or software application service of the company.

Sec. 18. NRS 706A.210 is hereby amended to read as follows:

706A.210 A transportation network company which connected a passenger to a driver or a monitored autonomous vehicle provider shall, within a reasonable period following the provision of transportation services by the driver or the monitored autonomous vehicle provider to the passenger, transmit to the passenger an electronic receipt, which must include, without limitation:

1. A description of the point of origin and the destination of the transportation services;

2. The total time for which transportation services were provided;

3. The total distance traveled; and

4. An itemization of the fare, if any, charged for the transportation services.
Sec. 19. NRS 706A.230 is hereby amended to read as follows:

706A.230 1. A transportation network company shall maintain the following records relating to the business of the company for a period of at least 3 years after the date on which the record is created:
(a) Trip records;
(b) Driver records and vehicle inspection records;
(c) Monitored autonomous vehicle provider records and monitored autonomous vehicle inspection records;
(d) Records of each complaint and the resolution of each complaint; and
(e) Records of each accident or other incident that involved a driver or monitored autonomous vehicle provider and was reported to the transportation network company.

2. Each transportation network company shall make its records available for inspection by the Authority upon request and only as necessary for the Authority to investigate complaints. This subsection does not require a company to make any proprietary information available to the Authority. Except as otherwise provided in subsection 3, any records provided to the Authority are confidential and must not be disclosed other than to employees of the Authority.

3. The Authority shall disclose to the Secretary of State the name of each driver and monitored autonomous vehicle provider and such other information as the Secretary of State determines necessary to enforce the provisions of chapter 76 of NRS. If the Secretary of State obtains any confidential information pursuant to this subsection, the Secretary of State, and any employee of the Secretary of State engaged in the administration of chapter 76 of NRS or charged with the custody of any records or files relating to the administration of chapter 76 of NRS, shall maintain the confidentiality of that information in the same manner and to the same extent as provided by law for the Authority.

Sec. 19.3. NRS 706A.250 is hereby amended to read as follows:

706A.250 1. Except as otherwise provided in this section, a transportation network company shall not disclose to any person the personally identifiable information of a passenger who received services from the company unless:
(a) The disclosure is otherwise required by law;
(b) The company determines that disclosure is required to protect or defend the terms of use of the services or to investigate violations of those terms of use; or
(c) The passenger consents to the disclosure.
2. A transportation network company may disclose to a driver or monitored autonomous vehicle provider the name and telephone number of a passenger for the purposes of facilitating correct identification of the passenger and facilitating communication between the driver or monitored autonomous vehicle provider and the passenger.

Sec. 19.6. NRS 706A.270 is hereby amended to read as follows:

706A.270 1. Each transportation network company shall provide to the Authority reports containing information relating to motor vehicle crashes involving drivers or monitored autonomous vehicle providers affiliated with the company which occurred in this State while the driver or monitored autonomous vehicle provider was providing transportation services or logged into the digital network or software application service of the company and available to receive requests for transportation services. The reports required by this subsection must contain the information identified in subsection 2 and be submitted:

(a) For all crashes that occurred during the first 6 months that the company operates within this State, on or before the date 7 months after the company was issued a permit.

(b) For all crashes that occurred during the first 12 months that the company operates within this State, on or before the date 13 months after the company was issued a permit.

2. The reports submitted pursuant to subsection 1 must include, for the period of time specified in subsection 1:

(a) The number of motor vehicle crashes which occurred in this State involving such a driver or monitored autonomous vehicle provider;

(b) The highest, lowest and average amount paid for bodily injury or death to one or more persons that occurred as a result of such a crash; and

(c) The highest, lowest and average amount paid for damage to property that occurred as a result of such a crash.

3. The Authority shall collect the reports submitted by transportation network companies pursuant to subsection 1 and determine whether the limits of coverage required pursuant to NRS 690B.470 are sufficient. The Authority shall submit a report stating whether the limits of coverage required pursuant to NRS 690B.470 are sufficient and containing the information, in an aggregated format which does not reveal the identity of any person, submitted by transportation network companies pursuant to subsection 1 since the last report of the Authority pursuant to this subsection:

(a) To the Legislative Commission on or before December 1 of each odd-numbered year.

(b) To the Director of the Legislative Counsel Bureau for transmittal to the Nevada Legislature on or before December 1 of each even-numbered year.

Sec. 19.9. NRS 706A.280 is hereby amended to read as follows:

706A.280 1. A driver or autonomous vehicle provider shall not solicit or accept a passenger or provide transportation services to any person unless
the person has arranged for the transportation services through the digital network or software application service of the transportation network company.

2. With respect to a passenger’s destination, a driver or monitored autonomous vehicle provider shall not:

(a) Deceive or attempt to deceive any passenger who rides or desires to ride in the driver’s motor vehicle or the monitored autonomous vehicle provider’s monitored autonomous vehicle.

(b) Convey or attempt to convey any passenger to a destination other than the one directed by the passenger.

(c) Take a longer route to the passenger’s destination than is necessary, unless specifically requested to do so by the passenger.

(d) Fail to comply with the reasonable and lawful requests of the passenger as to speed of travel and route to be taken.

3. A driver or monitored autonomous vehicle provider shall not, at the time the driver or monitored autonomous vehicle provider picks up a passenger, refuse or neglect to provide transportation services to any orderly passenger unless the driver or monitored autonomous vehicle provider can demonstrate to the satisfaction of the Authority that:

(a) For a driver, the driver has good reason to fear for the driver’s personal safety; or

(b) For a monitored autonomous vehicle provider, the monitored autonomous vehicle provider or safety engineer has good reason to fear for the personal safety of the safety engineer in the monitored autonomous vehicle picking up the person requesting transportation services; or

(c) The driver or monitored autonomous vehicle provider is prohibited by law or regulation from carrying the person requesting transportation services.

Sec. 20. NRS 706A.300 is hereby amended to read as follows:

706A.300 1. If the Authority determines that a transportation network company, driver or monitored autonomous vehicle provider has violated the terms of a permit issued pursuant to this chapter or any provision of this chapter or any regulations adopted pursuant thereto, the Authority may, depending on whether the violation was committed by the company, the driver, both the company and the driver or both the company and the monitored autonomous vehicle provider:

(a) If the Authority determines that the violation is willful and endangers public safety, suspend or revoke the permit issued to the transportation network company;

(b) If the Authority determines that the violation is willful and endangers public safety, impose against the transportation network company an administrative fine in an amount not to exceed $100,000 per violation;
(c) Prohibit a person from operating as a driver or monitored autonomous vehicle provider; or
(d) Impose any combination of the penalties provided in paragraphs (a), (b) and (c).

2. To determine the amount of an administrative fine imposed pursuant to paragraph (b) or (d) of subsection 1, the Authority shall consider:
   (a) The size of the transportation network company;
   (b) The severity of the violation;
   (c) Any good faith efforts by the transportation network company to remedy the violation;
   (d) The history of previous violations by the transportation network company; and
   (e) Any other factor that the Authority determines to be relevant.

3. Notwithstanding the provisions of NRS 193.170, a person who violates any provision of this chapter is not subject to any criminal penalty for such a violation.

Sec. 21. NRS 706A.310 is hereby amended to read as follows:

706A.310  1. Except as otherwise provided in subsection 2, a local governmental entity shall not:
   (a) Impose any tax or fee on a transportation network company operating within the scope of a valid permit issued by the Authority pursuant to this chapter:
       (1) A transportation network company described in subparagraph (1) or a vehicle operated by such a transportation network company described in subparagraph (1) or a vehicle operated by such a driver or for transportation services provided by such a driver;
       (2) A driver who has entered into an agreement with a transportation network company described in subparagraph (1) or a vehicle operated by such a driver or for transportation services provided by such a driver;
       (3) A monitored autonomous vehicle provider who has entered into an agreement with a transportation network company described in subparagraph (1) or a monitored autonomous vehicle provider or for transportation services provided by such a monitored autonomous vehicle provider;
   (b) Require a transportation network company operating within the scope of a valid permit issued by the Authority pursuant to this chapter to obtain from the local government any certificate, license or permit to operate within that scope or require a driver or mounted autonomous vehicle provider who has entered into an agreement with such a company to obtain from the local government any certificate, license or permit to provide transportation services.
   (c) Impose any other requirement upon a transportation network company, driver or monitored autonomous vehicle provider which is not of general applicability to all persons who operate a motor vehicle within the jurisdiction of the local government.

2. Nothing in this section:
(a) Prohibits a local governmental entity from requiring a transportation network company, driver or monitored autonomous vehicle provider to obtain from the local government a business license or to pay any business license fee in the same manner that is generally applicable to any other business that operates within the jurisdiction of the local government.

(b) Prohibits an airport or its governing body from requiring a transportation network company, driver or monitored autonomous vehicle provider to:

1. Obtain a permit or certification to operate at the airport;
2. Pay a fee to operate at the airport; or
3. Comply with any other requirement to operate at the airport.

(c) Exempts a vehicle operated by a driver or monitored autonomous vehicle provider from any tax imposed pursuant to NRS 354.705, 371.043 or 371.045.

3. The provisions of this chapter do not exempt any person from the requirement to obtain a state business license issued pursuant to chapter 76 of NRS. A transportation network company shall notify each driver and monitored autonomous vehicle provider of the requirement to obtain a state business license issued pursuant to chapter 76 of NRS and the penalties for failing to obtain a state business license.

Sec. 22. [NRS 706B.040 is hereby amended to read as follows:]

706B.040  “Fully autonomous vehicle” has the meaning ascribed to it in NRS 482A.036 [.] except the term does not include a monitored autonomous vehicle, as defined in section 2 of this act. (Deleted by amendment.)

Sec. 22.1. Chapter 690B of NRS is hereby amended by adding thereto the provisions set forth as sections 22.2 and 22.3 of this act.

Sec. 22.2. “Monitored autonomous vehicle provider” has the meaning ascribed to it in section 3 of this act.

Sec. 22.3. 1. A monitored autonomous vehicle provider shall ensure that proof of coverage under a policy of transportation network company insurance is contained within the monitored autonomous vehicle of the monitored autonomous vehicle provider at all times when the monitored autonomous vehicle provider is logged into the digital network or software application service of the transportation network company, available to receive requests for transportation services or providing transportation services.

2. If the monitored autonomous vehicle of a monitored autonomous vehicle provider is involved in an accident or motor vehicle crash, the monitored autonomous vehicle provider shall ensure that any law enforcement officer and any party with whom the monitored autonomous vehicle is involved in the accident or motor vehicle crash is provided with:

(a) Proof of coverage under a policy of transportation network company insurance; and
(b) A disclosure as to whether the monitored autonomous vehicle provider was logged into the digital network or software application service of the transportation network company, available to receive requests for transportation services or providing transportation services at the time of the accident or motor vehicle crash.

3. As used in this section, “monitored autonomous vehicle” has the meaning ascribed to it in section 2 of this act.

Sec. 22.4. NRS 690B.400 is hereby amended to read as follows:

690B.400 As used in NRS 690B.400 to 690B.495, inclusive, and sections 22.2 and 22.3 of this act, the words and terms defined in NRS 690B.410 to 690B.430, inclusive, and section 22.2 of this act have the meanings ascribed to them in those sections.

Sec. 22.5. NRS 690B.425 is hereby amended to read as follows:

690B.425 “Transportation network company insurance” means a policy of insurance that includes coverage specifically for the use of a vehicle by a driver or monitored autonomous vehicle provider pursuant to NRS 690B.400 to 690B.495, inclusive, and sections 22.2 and 22.3 of this act.

Sec. 22.6. NRS 690B.450 is hereby amended to read as follows:

690B.450 The provisions of NRS 690B.400 to 690B.495, inclusive, and sections 22.2 and 22.3 of this act do not apply to a person who is regulated pursuant to chapter 704 or 706 of NRS unless the person holds a permit issued pursuant to NRS 706A.130.

Sec. 22.7. NRS 690B.470 is hereby amended to read as follows:

690B.470 1. Every transportation network company or driver or monitored autonomous vehicle provider shall continuously provide, during any period in which the driver or monitored autonomous vehicle provider is providing transportation services, transportation network company insurance provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State or a broker licensed pursuant to chapter 685A of NRS or procured directly from a nonadmitted insurer, as defined in NRS 685A.0375:

(a) In an amount of not less than $1,500,000 for bodily injury to or death of one or more persons and injury to or destruction of property of others in any one accident or motor vehicle crash that occurs while the driver or monitored autonomous vehicle provider is providing transportation services;

(b) In an amount of not less than $50,000 for bodily injury to or death of one person in any one accident or motor vehicle crash that occurs while the driver or monitored autonomous vehicle provider is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services;

(c) Subject to the minimum amount for one person required by paragraph (b), in an amount of not less than $100,000 for bodily injury to or death of two or more persons in any one accident or motor vehicle crash that
occurs while the driver or monitored autonomous vehicle provider is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services; and

(d) In an amount of not less than $25,000 for injury to or destruction of property of others in any one accident or motor vehicle crash that occurs while the driver or monitored autonomous vehicle provider is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services,

for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.

2. The transportation network company insurance required by subsection 1 may be provided through one or a combination of insurance policies provided by the transportation network company, the driver, the monitored autonomous vehicle provider, both the transportation network company and the driver or both the transportation network company and the monitored autonomous vehicle provider.

3. Every transportation network company shall continuously provide, during any period in which the driver or monitored autonomous vehicle provider is providing transportation services, transportation network company insurance provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State or a broker licensed pursuant to chapter 685A of NRS or procured directly from a nonadmitted insurer, as defined in NRS 685A.0375, which meets the requirements of subsection 1 as primary insurance if the insurance provided by the driver or monitored autonomous vehicle provider:

(a) Lapses; or

(b) Fails to meet the requirements of subsection 1.

4. Notwithstanding the provisions of NRS 485.185 and 485.186 which require the owner or operator of a motor vehicle to provide insurance, transportation network company insurance shall be deemed to satisfy the requirements of NRS 485.185 or 485.186, as appropriate, regardless of whether the insurance is provided by the transportation network company, the driver, the monitored autonomous vehicle provider, both the transportation network company and the driver or both the transportation network company and the monitored autonomous vehicle provider, if the transportation network company insurance otherwise satisfies the requirements of NRS 485.185 or 485.186, as appropriate.

5. In addition to the coverage required pursuant to subsection 1, a policy of transportation network company insurance may include additional coverage, including, without limitation, coverage for medical payments,
coverage for uninsured or underinsured motorists, comprehensive coverage and collision coverage.

6. An insurer who provides transportation network company insurance shall not require a policy of insurance for the operation of a motor vehicle required pursuant to NRS 485.185 or 485.186, as appropriate, to deny a claim before the transportation network company insurance provides coverage for a claim.

7. An insurer who provides transportation network company insurance has a duty to defend and indemnify the driver or monitored autonomous vehicle provider and the transportation network company.

8. An insurer who provides transportation network company insurance which includes comprehensive coverage or collision coverage for the operation of a motor vehicle against which a lienholder holds a lien shall issue any payment for a claim under such coverage:
   (a) Directly to the person who performs repairs upon the vehicle; or
   (b) Jointly to the owner of the vehicle and the lienholder.

9. A transportation network company that provides transportation network company insurance for a motor vehicle is not deemed to be the owner of the motor vehicle.

Sec. 22.8. NRS 690B.480 is hereby amended to read as follows:

690B.480  1. A policy of insurance for the operation of a motor vehicle required pursuant to NRS 485.185 or 485.186, as appropriate, is not required to include transportation network company insurance. An insurer providing a policy which excludes transportation network company insurance does not have a duty to defend or indemnify a driver or monitored autonomous vehicle provider for any claim arising during any period in which the driver or monitored autonomous vehicle provider is logged into the digital network or software application service of the transportation network company, available to receive requests for transportation services or providing transportation services.

2. An insurer who provides a policy of insurance for the operation of a motor vehicle required pursuant to NRS 485.185 or 485.186, as appropriate, may include transportation network company insurance in such a policy. An insurer may charge an additional premium for the inclusion of transportation network company insurance in such a policy.

3. An insurer who:
   (a) Defends or indemnifies a driver or monitored autonomous vehicle provider for a claim arising during any period in which the driver or monitored autonomous vehicle provider is logged into the digital network or software application service of the transportation network company, available to receive requests for transportation services or providing transportation services; and
   (b) Excludes transportation network company insurance from the policy of insurance for the operation of a motor vehicle provided to the driver or monitored autonomous vehicle provider.
has the right of contribution against other insurers who provide coverage to
the driver or monitored autonomous vehicle provider to satisfy the coverage
required by NRS 690B.470 at the time of the loss.

Sec. 22.9. NRS 690B.490 is hereby amended to read as follows:

690B.490 In any investigation relating to tort liability arising from the
operation of a motor vehicle, each transportation network company, driver, and monitored autonomous vehicle provider, and each insurer
providing transportation network company insurance to a transportation
network company, or driver or monitored autonomous vehicle provider
who is involved in the underlying incident shall cooperate with any other party
to the incident and any other insurer involved in the investigation and share
information, including, without limitation:

1. The date and time of an accident or motor vehicle crash involving a
driver or monitored autonomous vehicle provider.

2. The dates and times that the driver or monitored autonomous vehicle
provider involved in an accident or motor vehicle crash logged into the digital
network or software application service of the transportation network company
for a period of 12 hours immediately preceding and 12 hours immediately
following the accident or motor vehicle crash.

3. The dates and times that the driver or monitored autonomous vehicle
provider involved in an accident or motor vehicle crash logged out of the
digital network or software application service of the transportation network
company for a period of 12 hours immediately preceding and 12 hours
immediately following the accident or motor vehicle crash.

4. A clear description of the coverage, exclusions and limits provided
under any policy of transportation network company insurance which applies.

Sec. 23. 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. 24. This act becomes effective on July 1, 2021.

Senator Harris moved the adoption of the amendment.
Remarks by Senator Harris.
(To be entered at a later date.)

Amendment adopted.
Bill read third time.
Remarks by Senators Harris and Pickard.

SENATOR HARRIS:
(To be entered at a later date.)

SENATOR PICKARD:
(To be entered at a later date.)

Roll call on Senate Bill No. 288:
YEAS—21.
NAYS—None.
Senate Bill No. 288 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 289.

Bill read third time.

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

Amendment No. 408.

SUMMARY—Revises provisions relating to workers’ compensation.

(BDR 53-713)

AN ACT relating to workers’ compensation; establishing provisions relating to the apportionment of percentages for present and previous disabilities; requiring an insurer to send a written determination regarding an industrial insurance claim by facsimile or other electronic transmission under certain circumstances; making compensation for an industrial injury or occupational disease subject to an attorney’s lien; providing for the tolling of certain periods to request a hearing or appeal under certain circumstances; providing for an award of certain costs to a claimant who prevails in a contested claim; providing for the reservation of certain additional rights of a claimant who accepts a lump sum payment for a permanent partial disability; revising provisions governing the appointment of a vocational rehabilitation counselor for an injured employee; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires, in a case where an injured employee is determined to have a permanent partial disability and there is a previous disability, an apportionment to be made by subtracting the percentage of previous disability as it existed at the time of the previous disability from the percentage of present disability as it existed at the time of the present disability. (NRS 616C.490) Sections 1 and 7 of this bill revise these provisions to prohibit: (1) an apportionment of percentages of disabilities where no rating evaluation was performed for the previous disability unless the insurer proves by a preponderance of the evidence that certain specific medical evidence supports a specific percentage of previous disability; and (2) any reduction of the percentage of present impairment if no medical documentation or health care records of a preexisting impairment exist, unless certain other evidentiary requirements are satisfied. Section 7 also requires an insurer to commence making installment payments to an injured employee, within a specified period of time and without requiring the employee to elect a method of payment, for that portion of an award of compensation for permanent partial disability which is not in dispute.

Existing law requires an injured employee to submit to an examination and any necessary immediate medical attention by a physician or chiropractor and requires the physician or chiropractor to complete and file a claim for
Sections 1.4, 1.6, 2.2 and 2.4 of this bill authorize the examination and treatment to be provided by a physician assistant or advanced practice registered nurse and, if so provided, require the physician assistant or advanced practice registered nurse to file a claim for compensation and provide a copy of the claim form to the injured employee.

Existing law requires an insurer to mail a written determination regarding a claim for compensation under industrial insurance. (NRS 616C.065, 617.356) Sections 2 and 10 of this bill require the insurer to send its determination by facsimile or other electronic transmission, if so requested, to the claimant or the person acting on behalf of the claimant and retain proof of successful transmission of the facsimile.

Existing law provides that, except in matters relating to child support, compensation payable or paid for an industrial injury or occupational disease is not assignable and is exempt from attachment, garnishment and execution. (NRS 616C.205) Section 3 of this bill provides that such compensation may also be subject to an attorney’s lien.

Existing law sets forth certain limits on the period of time in which an aggrieved party may request a hearing before a hearing officer or appeal from a decision of a hearing officer. (NRS 616C.315, 616C.345) Sections 4 and 6 of this bill provide that periods within which a request for a hearing or an appeal may be filed may be tolled if the insurer fails to mail or, if so requested, send by facsimile or other electronic transmission a determination regarding a claim for compensation.

Existing law provides that if a contested claim for compensation is decided in favor of the claimant, he or she is entitled to an award of interest. (NRS 616C.335) Section 5 of this bill provides that the claimant is also entitled to an award of certain costs and sets forth the procedure for requesting costs and adjudicating disputes for such costs.

Existing law provides that a claimant who elects to receive and accepts payment for a permanent partial disability in a lump sum terminates the claimant’s benefits and waives certain rights regarding his or her claim, including the right to appeal from the closure of the case and the percentage of his or her disability. except the right to reopen his or her claim, have the claim considered by his or her insurer, certain rehabilitative services and the right to receive a benefit penalty. (NRS 616C.495) Section 8 of this bill provides that the claimant also reserves the right to conclude or resolve any contested matter, with certain exceptions, which is pending at the time of the election of payment for a permanent partial disability in a lump sum.

Existing law authorizes an insurer or injured employee to request a vocational rehabilitation counselor to prepare a written assessment of the injured employee. (NRS 616C.550) Existing law requires the vocational rehabilitation counselor to develop a plan for a program of vocational compensation. (NRS 616C.010, 616C.040, 616C.075, 616C.095) Sections 1.4, 1.6, 2.2 and 2.4 of this bill authorize the examination and treatment to be provided by a physician assistant or advanced practice registered nurse and, if so provided, require the physician assistant or advanced practice registered nurse to file a claim for compensation and provide a copy of the claim form to the injured employee.

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Existing law provides that a claimant who elects to receive and accepts payment for a permanent partial disability in a lump sum terminates the claimant’s benefits and waives certain rights regarding his or her claim, [including the right to appeal from the closure of the case and the percentage of his or her disability.] except the right to reopen his or her claim, have the claim considered by his or her insurer, certain rehabilitative services and the right to receive a benefit penalty. (NRS 616C.495) Section 8 of this bill [eliminates these provisions.] provides that the claimant also reserves the right to conclude or resolve any contested matter, with certain exceptions, which is pending at the time of the election of payment for a permanent partial disability in a lump sum.

Existing law authorizes an insurer or injured employee to request a vocational rehabilitation counselor to prepare a written assessment of the injured employee. (NRS 616C.550) Existing law requires the vocational rehabilitation counselor to develop a plan for a program of vocational compensation. (NRS 616C.010, 616C.040, 616C.075, 616C.095) Sections 1.4, 1.6, 2.2 and 2.4 of this bill authorize the examination and treatment to be provided by a physician assistant or advanced practice registered nurse and, if so provided, require the physician assistant or advanced practice registered nurse to file a claim for compensation and provide a copy of the claim form to the injured employee.

Existing law requires an insurer to mail a written determination regarding a claim for compensation under industrial insurance. (NRS 616C.065, 617.356) Sections 2 and 10 of this bill require the insurer to send its determination by facsimile or other electronic transmission, if so requested, to the claimant or the person acting on behalf of the claimant and retain proof of successful transmission of the facsimile.

Existing law provides that, except in matters relating to child support, compensation payable or paid for an industrial injury or occupational disease is not assignable and is exempt from attachment, garnishment and execution. (NRS 616C.205) Section 3 of this bill provides that such compensation may also be subject to an attorney’s lien.

Existing law sets forth certain limits on the period of time in which an aggrieved party may request a hearing before a hearing officer or appeal from a decision of a hearing officer. (NRS 616C.315, 616C.345) Sections 4 and 6 of this bill provide that periods within which a request for a hearing or an appeal may be filed may be tolled if the insurer fails to mail or, if so requested, send by facsimile or other electronic transmission a determination regarding a claim for compensation.

Existing law provides that if a contested claim for compensation is decided in favor of the claimant, he or she is entitled to an award of interest. (NRS 616C.335) Section 5 of this bill provides that the claimant is also entitled to an award of certain costs and sets forth the procedure for requesting costs and adjudicating disputes for such costs.

Existing law provides that a claimant who elects to receive and accepts payment for a permanent partial disability in a lump sum terminates the claimant’s benefits and waives certain rights regarding his or her claim, [including the right to appeal from the closure of the case and the percentage of his or her disability.] except the right to reopen his or her claim, have the claim considered by his or her insurer, certain rehabilitative services and the right to receive a benefit penalty. (NRS 616C.495) Section 8 of this bill [eliminates these provisions.] provides that the claimant also reserves the right to conclude or resolve any contested matter, with certain exceptions, which is pending at the time of the election of payment for a permanent partial disability in a lump sum.

Existing law authorizes an insurer or injured employee to request a vocational rehabilitation counselor to prepare a written assessment of the injured employee. (NRS 616C.550) Existing law requires the vocational rehabilitation counselor to develop a plan for a program of vocational
rehabilitation for each eligible injured employee. (NRS 616C.55) Existing law further provides that where a written assessment is requested or a plan for a program of vocational rehabilitation is required and the insurer or injured employee or personal or legal representative of the injured employee are unable to agree on the appointment of a vocational rehabilitation counselor, the insurer shall submit a list of at least three vocational rehabilitation counselors to the injured employee or personal or legal representative of the injured employee. (NRS 616C.541) Section 9 of this bill prohibits an insurer from including in the list any two counselors who are employed by the same organization or entity. It requires the counselors listed to be employed by at least three different organizations or entities.

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

Section 1. Chapter 616C of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a rating evaluation was completed for a previous disability involving a condition, occupational disease, organ, anatomical structure or other part of the body that is identical to the condition, occupational disease, organ, anatomical structure or other part of the body being evaluated for the present disability, the percentage of disability for a subsequent injury must be determined by deducting the percentage of the previous disability from the percentage of the present disability, regardless of the edition of the American Medical Association’s Guides to the Evaluation of Permanent Impairment as adopted by the Division pursuant to NRS 616C.110 used to determine the percentage of the previous disability. The compensation awarded for a permanent disability on a subsequent injury must be reduced only by the awarded or agreed upon percentage of disability actually received by the injured employee for the previous injury regardless of the percentage of the previous disability.

2. If no rating evaluation performed before the date of injury or onset of the occupational disease exists for apportionment of percentage of present and previous disabilities pursuant to subsection 1, the percentage of the present disability must not be reduced unless:

(a) The insurer proves by a preponderance of the evidence that medical documentation or health care records that existed before the date of the injury or onset of the occupational disease that resulted in the present disability demonstrate evidence that the injured employee had an actual impairment or disability involving the condition, occupational disease, organ, anatomical structure or other part of the body that is the subject of the present disability; and

(b) The rating physician or chiropractor states to a reasonable degree of medical or chiropractic probability that, based upon the specific information in the preexisting medical documentation or health care records, the injured employee would have had a specific percentage of disability immediately
before the date of the injury or the onset of the occupational disease if, in the instant before the injury or the onset of the occupational disease, the injured employee had been evaluated under the edition of the American Medical Association’s Guides to the Evaluation of Permanent Impairment that had been adopted by the Division pursuant to NRS 616C.110.

3. The documentation or records relied upon pursuant to subsection 2 must provide specific references to diagnoses, measurements, imaging or other commonly relied upon medical evidence that supports the finding of a preexisting ratable impairment under the specific provisions of the edition of the American Medical Association’s Guides to the Evaluation of Permanent Impairment that had been adopted by the Division pursuant to NRS 616C.110 at the time of that rating evaluation.

4. If there is physical evidence of a prior surgery to the same organ, anatomical structure or other part of the body being evaluated for the present disability but no medical documentation or health care records regarding that organ, anatomical structure or other part of the body can be obtained, the rating physician or chiropractor may apportion the rating provided that the applicable requirements of subsection 2, other than any requirement to:

(a) Have medical documentation or health care records; or
(b) Base a rating upon medical documentation or health care records, are satisfied.

5. If there is no physical evidence of a prior surgery to the same organ, anatomical structure or other part of the body being evaluated for the present disability and no medical documentation or health care records of a preexisting whole person impairment for the identical condition, occupational disease, organ, anatomical structure or other part of the body being evaluated for the present disability exist for the purposes of subsection 1 or 2, the percentage of present impairment must not be reduced by any percentage for the previous impairment.

Sec. 1.2. NRS 616C.005 is hereby amended to read as follows:

616C.005 On or before September 1 of each year:

1. An insurer shall distribute to each employer that it insures any form for reporting injuries that has been revised within the previous 12 months.

2. The Administrator shall make available to physicians, chiropractors, physician assistants and advanced practice registered nurses any form for reporting injuries that has been revised within the previous 12 months.

Sec. 1.4. NRS 616C.010 is hereby amended to read as follows:
Whenever any accident occurs to any employee, the employee shall forthwith report the accident and the injury resulting therefrom to his or her employer.

When an employer learns of an accident, whether or not it is reported, the employer may direct the employee to submit to, or the employee may request, an examination by a physician, chiropractor, physician assistant or advanced practice registered nurse, in order to ascertain the character and extent of the injury and render medical attention which is required immediately. The employer shall:

(a) If the employer’s insurer has entered into a contract with an organization for managed care or with providers of health care pursuant to NRS 616B.527, furnish the names, addresses and telephone numbers of:

1. Two or more physicians, chiropractors, physician assistants or advanced practice registered nurses who are qualified to conduct the examination and who are available pursuant to the terms of the contract, if there are two or more such physicians, chiropractors, physician assistants or advanced practice registered nurses within 30 miles of the employee’s place of employment; or

2. One or more physicians, chiropractors, physician assistants or advanced practice registered nurses who are qualified to conduct the examination and who are available pursuant to the terms of the contract, if there are not two or more such physicians, chiropractors, physician assistants or advanced practice registered nurses within 30 miles of the employee’s place of employment.

(b) If the employer’s insurer has not entered into a contract with an organization for managed care or with providers of health care pursuant to NRS 616B.527, furnish the names, addresses and telephone numbers of:

1. Two or more physicians, chiropractors, physician assistants or advanced practice registered nurses who are qualified to conduct the examination, if there are two or more such physicians, chiropractors, physician assistants or advanced practice registered nurses within 30 miles of the employee’s place of employment; or

2. One or more physicians, chiropractors, physician assistants or advanced practice registered nurses who are qualified to conduct the examination, if there are not two or more such physicians, chiropractors, physician assistants or advanced practice registered nurses within 30 miles of the employee’s place of employment.

3. From among the names furnished by the employer pursuant to subsection 2, the employee shall select one of those physicians, chiropractors, physician assistants or advanced practice registered nurses to conduct the examination, but the employer shall not require the employee to select a particular physician, chiropractor, physician assistant or advanced practice registered nurse from among the names furnished by the employer. Thereupon, the examining physician, chiropractor, physician assistant or advanced practice registered nurse shall:

(a) Provide medical care and treatment to the employee, which may include immediate medical attention or further medical examination or treatment, as necessary.

(b) Make a diagnosis of the employee’s injury and the treatment required.

(c) Furnish the employee with a copy of the medical report and the diagnosis.

(d) Report the diagnosis and the treatment rendered to the employer.

(e) Inform the employer of any significant changes in the employee’s condition or treatment.

(f) The employee shall be entitled to make copies of the medical records and medical reports and the employee’s right to make copies of the medical records and medical reports is not subject to the terms of any contract entered into between the employer and the employee’s insurer.
assistant or advanced practice registered nurse, as applicable, shall report forthwith to the employer and to the insurer the character and extent of the injury. The employer shall not require the employee to disclose or permit the disclosure of any other information concerning the employee’s physical condition except as required by NRS 616C.177.

4. Further medical attention, except as otherwise provided in NRS 616C.265, must be authorized by the insurer.

5. This section does not prohibit an employer from requiring the employee to submit to an examination by a physician or chiropractor specified by the employer at any convenient time after medical attention which is required immediately has been completed.

6. An employee leasing company must provide to each employee covered under an employee leasing contract instructions on how to notify the leasing company supervisor and client company of an injury in plain, clear language placed in conspicuous type in a specifically labeled area of instructions given to the employee.

Sec. 1.6. NRS 616C.040 is hereby amended to read as follows:

616C.040 1. Except as otherwise provided in this section, a treating physician, chiropractor, physician assistant or advanced practice registered nurse shall, within 3 working days after first providing treatment to an injured employee for a particular injury, complete and file a claim for compensation with the employer of the injured employee and the employer’s insurer. If the employer is a self-insured employer, the treating physician, chiropractor, physician assistant or advanced practice registered nurse shall file the claim for compensation with the employer’s third-party administrator. If the physician, chiropractor, physician assistant or advanced practice registered nurse files the claim for compensation by electronic transmission, the physician, chiropractor, physician assistant or advanced practice registered nurse shall, upon request, mail to the insurer or third-party administrator the form prescribed by the Administrator for a claim for compensation that is signed by the injured employee and the physician, chiropractor, physician assistant or advanced practice registered nurse. The form must be mailed within 7 days after receiving such a request.

2. A physician, chiropractor, physician assistant or advanced practice registered nurse who has a duty to file a claim for compensation pursuant to subsection 1 may delegate the duty to a physician assistant or an advanced practice registered nurse at a medical facility. If the physician, chiropractor, physician assistant or advanced practice registered nurse delegates the duty to a physician assistant or an advanced practice registered nurse at a medical facility:

(a) The physician assistant or advanced practice registered nurse, as applicable, at the medical facility must comply with the filing requirements set forth in this section; and
(b) The delegation must be in writing and signed by:
   (1) The delegating physician, chiropractor, physician assistant or advanced practice registered nurse; and
   (2) An authorized representative of the medical facility.

3. A claim for compensation required by subsection 1 must:
   (a) Be filed on a form prescribed by the Administrator; and
   (b) Be signed with the original or electronic signatures of the injured employee and:
      (1) The physician, chiropractor, physician assistant or advanced practice registered nurse who treated the injured employee; or
      (2) The physician assistant or advanced practice registered nurse to whom the duty to file a claim for compensation is delegated pursuant to subsection 2.

4. If a claim for compensation is accompanied by a certificate of disability, the certificate must include a description of any limitation or restrictions on the injured employee’s ability to work.

5. A copy of the completed form that is required to be filed pursuant to subsection 3 and which is fully executed with the required original or electronic signatures must be provided to the injured employee at the time of discharge.

6. Each physician, chiropractor, physician assistant, advanced practice registered nurse and medical facility that treats injured employees, each insurer, third-party administrator and employer, and the Division shall maintain at their offices a sufficient supply of the forms prescribed by the Administrator for filing a claim for compensation.

The Administrator may impose an administrative fine of not more than $1,000 for each violation of subsection 1 on:
   (a) A treating physician, chiropractor, physician assistant or advanced practice registered nurse; or
   (b) A physician assistant or advanced practice registered nurse at a medical facility if the duty to file the claim for compensation has been delegated to the medical facility pursuant to this section.

Sec. 1.8. NRS 616C.045 is hereby amended to read as follows:

616C.045 1. Except as otherwise provided in NRS 616B.727, within 6 working days after the receipt of a claim for compensation from a physician, chiropractor, physician assistant or advanced practice registered nurse, or a medical facility if the duty to file the claim for compensation has been delegated to the medical facility pursuant to NRS 616C.040, an employer shall complete and file with his or her insurer or third-party administrator an employer’s report of industrial injury or occupational disease.

2. The report must:
   (a) Be filed on a form prescribed by the Administrator;
   (b) Be signed by the employer or the employer’s designee;
(c) Contain specific answers to all questions required by the regulations of the Administrator; and

(d) Be accompanied by a statement of the wages of the employee if the claim for compensation received from the treating physician, chiropractor, physician assistant or advanced practice registered nurse, or a medical facility if the duty to file the claim for compensation has been delegated to the medical facility pursuant to NRS 616C.040, indicates that the injured employee is expected to be off work for 5 days or more.

3. An employer who files the report required by subsection 1 by electronic transmission shall, upon request, mail to the insurer or third-party administrator the form that contains the original signature of the employer or the employer’s designee. The form must be mailed within 7 days after receiving such a request.

4. The Administrator shall impose an administrative fine of not more than $1,000 on an employer for each violation of this section.

Sec. 2. NRS 616C.065 is hereby amended to read as follows:

616C.065 1. Except as otherwise provided in NRS 616C.136, within 30 days after the insurer has been notified of an industrial accident, every insurer shall:

(a) Accept a claim for compensation, notify the claimant or the person acting on behalf of the claimant that the claim has been accepted and commence payment of the claim; or

(b) Deny the claim and notify the claimant or the person acting on behalf of the claimant and the Administrator that the claim has been denied.

2. If an insurer is ordered by the Administrator, a hearing officer, an appeals officer, a district court, the Court of Appeals or the Supreme Court of Nevada to make a new determination, including, without limitation, a new determination regarding the acceptance or denial of a claim for compensation, the insurer shall make the new determination within 30 days after the date on which the insurer has been ordered to do so.

3. Payments made by an insurer pursuant to this section are not an admission of liability for the claim or any portion of the claim.

4. Except as otherwise provided in this subsection, if an insurer unreasonably delays or refuses to pay the claim within 30 days after the insurer has been notified of an industrial accident, the insurer shall pay upon order of the Administrator an additional amount equal to three times the amount specified in the order as refused or unreasonably delayed. This payment is for the benefit of the claimant and must be paid to the claimant with the compensation assessed pursuant to chapters 616A to 617, inclusive, of NRS. The provisions of this section do not apply to the payment of a bill for accident benefits that is governed by the provisions of NRS 616C.136.

5. The insurer shall notify the claimant or the person acting on behalf of the claimant that a claim has been accepted or denied pursuant to subsection 1 or 2 by:
(a) Mailing its written determination to the claimant or the person acting on behalf of the claimant and

(b) If the claim has been denied, in whole or in part, obtaining a certificate of mailing; or

(b) If and as requested by the claimant or the person acting on behalf of the claimant, sending its written determination to the claimant or the person acting on behalf of the claimant by facsimile or other electronic transmission the proof of sending and receipt of which is readily verifiable and retaining proof of a successful transmission and receipt of the facsimile or other electronic transmission, as applicable.

6. The failure of the insurer to obtain, as applicable:

(a) Obtain a certificate of mailing as required by paragraph (b) (a) of subsection 5 shall be deemed to be a failure of the insurer to mail the written determination of the denial of a claim as required by this section; or

(b) Retain proof of a successful transmission and receipt of the facsimile or other electronic transmission the proof of sending and receipt of which is readily verifiable as required by paragraph (b) of subsection 5 shall be deemed to be a failure of the insurer to send by facsimile or other electronic transmission the written determination regarding a claim as required by this section.

7. The failure of the insurer to indicate the acceptance or denial of a claim for a part of the body or condition does not constitute a denial or acceptance thereof.

8. Upon request, the insurer shall provide a copy of the certificate of mailing, if any, or proof of a successful transmission and receipt of the facsimile or other electronic transmission, as applicable, to the claimant or the person acting on behalf of the claimant.

9. For the purposes of this section, the insurer shall mail either:

(a) Mail the written determination to:

(1) The mailing address of the claimant or the person acting on behalf of the claimant that is provided on the form prescribed by the Administrator for filing the claim; or

(2) Another mailing address if the claimant or the person acting on behalf of the claimant provides to the insurer written notice of another mailing address; or

(b) If and as requested by the claimant or the person acting on behalf of the claimant, send the written determination by facsimile or other electronic transmission the proof of sending and receipt of which is readily verifiable to the claimant or the person acting on behalf of the claimant.

10. As used in this section, “certificate of mailing” means a receipt that provides evidence of the date on which the insurer presented its written determination to the United States Postal Service for mailing.

Sec. 2.2. NRS 616C.075 is hereby amended to read as follows:
1. If an employee is properly directed to submit to a physical examination and the employee refuses to permit the treating physician, chiropractor, physician assistant or advanced practice registered nurse to make an examination and to render medical attention as may be required immediately, no compensation may be paid for the injury claimed to result from the accident.

2. References to a physician assistant and an advanced practice registered nurse in this section are for the purposes of the examination and treatment of an injured employee which are authorized to be provided by a physician assistant or advanced practice registered nurse in the exclusive context of an initial examination and treatment pursuant to NRS 616C.010.

Sec. 2.4. NRS 616C.095 is hereby amended to read as follows:

1. The physician, chiropractor, physician assistant or advanced practice registered nurse shall inform the injured employee of the injured employee’s rights under chapters 616A to 616D, inclusive, or chapter 617 of NRS and lend all necessary assistance in making application for compensation and such proof of other matters as required by the rules of the Division, without charge to the employee.

2. References to a physician assistant and an advanced practice registered nurse in this section are for the purposes of the examination and treatment of an injured employee which are authorized to be provided by a physician assistant or advanced practice registered nurse in the exclusive context of an initial examination and treatment pursuant to NRS 616C.010.

Sec. 2.6. NRS 616C.098 is hereby amended to read as follows:

1. Certain phrases relating to a claim for compensation for an industrial injury or occupational disease and used by a physician, chiropractor, physician assistant or advanced practice registered nurse when determining the causation of an industrial injury or occupational disease are deemed to be equivalent and may be used interchangeably. Those phrases are:
   (a) “Directly connect this injury or occupational disease as job incurred”;
   (b) “A degree of reasonable medical probability that the condition in question was caused by the industrial injury.”

2. References to a physician assistant and an advanced practice registered nurse in this section are for the purposes of the examination and treatment of an injured employee which are authorized to be provided by a physician assistant or advanced practice registered nurse in the exclusive context of an initial examination and treatment pursuant to NRS 616C.010.

Sec. 2.8. NRS 616C.130 is hereby amended to read as follows:

1. The insurer shall not authorize the payment of any money to a physician, chiropractor, physician assistant or advanced practice registered nurse for services rendered by the physician, chiropractor, physician assistant or advanced practice registered nurse, as applicable, in attending an injured employee until an itemized statement for the services has
been received by the insurer accompanied by a certificate of the physician, chiropractor, physician assistant or advanced practice registered nurse stating that a duplicate of the itemized statement has been filed with the employer of the injured employee.

2. References to a physician assistant and an advanced practice registered nurse in this section are for the purposes of the examination and treatment of an injured employee which are authorized to be provided by a physician assistant or advanced practice registered nurse in the exclusive context of an initial examination and treatment pursuant to NRS 616C.010.

Sec. 3. NRS 616C.205 is hereby amended to read as follows:

616C.205 Except as otherwise provided in this section and NRS 18.015, 31A.150 and 31A.330, compensation payable or paid under chapters 616A to 616D, inclusive, or chapter 617 of NRS, whether determined or due, or not:
1. Is not assignable before the issuance and delivery of the check or the deposit of any payment for compensation pursuant to NRS 616C.409;
2. Is exempt from attachment, garnishment and execution; and
3. Does not pass to any other person by operation of law.

In the case of the death of an injured employee covered by chapters 616A to 616D, inclusive, or chapter 617 of NRS from causes independent from the injury for which compensation is payable, any compensation due the employee which was awarded or accrued but for which a check was not issued or delivered or for which payment was not made pursuant to NRS 616C.409 at the date of death of the employee is payable to the dependents of the employee as defined in NRS 616C.505.

Sec. 3.3. NRS 616C.265 is hereby amended to read as follows:

616C.265 1. Except as otherwise provided in NRS 616C.280, every employer operating under chapters 616A to 616D, inclusive, of NRS, alone or together with other employers, may make arrangements to provide accident benefits as defined in those chapters for injured employees.
2. Employers electing to make such arrangements shall notify the Administrator of the election and render a detailed statement of the arrangements made, which arrangements do not become effective until approved by the Administrator.
3. Every employer who maintains a hospital of any kind for his or her employees, or who contracts for the hospital care of injured employees, shall, on or before January 30 of each year, make a written report to the Administrator for the preceding year, which must contain a statement showing:
   (a) The total amount of hospital fees collected, showing separately the amount contributed by the employees and the amount contributed by the employers;
   (b) An itemized account of the expenditures, investments or other disposition of such fees; and
   (c) What balance, if any, remains.
4. Every employer who provides accident benefits pursuant to this section:
(a) Shall, in accordance with regulations adopted by the Administrator, make a written report to the Division of that employer’s actual and expected annual expenditures for claims and such other information as the Division deems necessary to calculate an estimated or final annual assessment and shall, to the extent that the regulations refer to the responsibility of insurers to make such reports, be deemed to be an insurer.

(b) Shall pay the assessments collected pursuant to NRS 232.680 and 616A.430.

5. The reports required by the provisions of subsections 3 and 4 must be verified:
   (a) If the employer is a natural person, by the employer;
   (b) If the employer is a partnership, by one of the partners;
   (c) If the employer is a corporation, by the secretary, president, general manager or other executive officer of the corporation; or
   (d) If the employer has contracted with a physician or chiropractor for the hospital care of injured employees, by the physician or chiropractor.

6. No employee is required to accept the services of a physician, chiropractor, physician assistant or advanced practice registered nurse provided by his or her employer, but may seek professional medical services of the employee’s choice as provided in NRS 616C.090. Expenses arising from such medical services must be paid by the employer who has elected to provide benefits, pursuant to the provisions of this section, for the employer’s injured employees.

7. Every employer who fails to notify the Administrator of such election and arrangements, or who fails to render the financial reports required, is liable for accident benefits as provided by NRS 616C.255.

8. References to a physician assistant and an advanced practice registered nurse in this section are for the purposes of the examination and treatment of an injured employee which are authorized to be provided by a physician assistant or advanced practice registered nurse in the exclusive context of an initial examination and treatment pursuant to NRS 616C.010.

Sec. 3.7. NRS 616C.270 is hereby amended to read as follows:

616C.270 1. Every employer who has elected to provide accident benefits for his or her injured employees shall prepare and submit a written report to the Administrator:
   (a) Within 6 days after any accident if an injured employee is examined or treated by a physician, chiropractor, physician assistant or advanced practice registered nurse; and
   (b) If the injured employee receives additional medical services.

2. The Administrator shall review each report to determine whether the employer is furnishing the accident benefits required by chapters 616A to 616D, inclusive, of NRS.

3. The content and form of the written reports must be prescribed by the Administrator.
4. **References to a physician assistant and an advanced practice registered nurse in this section are for the purposes of the examination and treatment of an injured employee which are authorized to be provided by a physician assistant or advanced practice registered nurse in the exclusive context of an initial examination and treatment pursuant to NRS 616C.010.**

Sec. 4. NRS 616C.315 is hereby amended to read as follows:

616C.315 1. Any person who is subject to the jurisdiction of the hearing officers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS may request a hearing before a hearing officer of any matter within the hearing officer’s authority. The insurer shall provide, without cost, the forms necessary to request a hearing to any person who requests them.

2. A hearing must not be scheduled until the following information is provided to the hearing officer:
   (a) The name of:
      (1) The claimant;
      (2) The employer; and
      (3) The insurer or third-party administrator;
   (b) The number of the claim; and
   (c) If applicable, a copy of the letter of determination being appealed or, if such a copy is unavailable, the date of the determination and the issues stated in the determination.

3. Except as otherwise provided in NRS 616B.772, 616B.775, 616B.787, 616C.305 and 616C.427, a person who is aggrieved by:
   (a) A written determination of an insurer; or
   (b) The failure of an insurer to respond within 30 days to a written request mailed to the insurer by the person who is aggrieved,
   may appeal from the determination or failure to respond by filing a request for a hearing before a hearing officer. Such a request must include the information required pursuant to subsection 2 and, except as otherwise provided in subsections 4 and 5, must be filed within 70 days after the date on which the notice of the insurer’s determination was mailed or, if requested by the claimant or the person acting on behalf of the claimant, sent by facsimile or other electronic transmission the proof of sending and receipt of which is readily verifiable by the insurer or the unanswered written request was mailed to the insurer, as applicable. The failure of an insurer to respond to a written request for a determination within 30 days after receipt of such a request shall be deemed by the hearing officer to be a denial of the request.

4. The period specified in subsection 3 within which a request for a hearing must be filed may be extended:
   (a) Extended for an additional 90 days if the person aggrieved shows by a preponderance of the evidence that the person was diagnosed with a terminal illness or was informed of the death or diagnosis of a terminal illness of his or her spouse, parent or child.
(b) Tolled if the insurer fails to mail or, if requested by the claimant or the person acting on behalf of the claimant, send by facsimile or other electronic transmission the proof of sending and receipt of which is readily verifiable a determination.

5. Failure to file a request for a hearing within the period specified in subsection 3 may be excused if the person aggrieved shows by a preponderance of the evidence that the person did not receive the notice of the determination and the forms necessary to request a hearing. The claimant or employer shall notify the insurer of a change of address.

6. The hearing before the hearing officer must be conducted as expeditiously and informally as is practicable.

7. The parties to a contested claim may, if the claimant is represented by legal counsel, agree to forego a hearing before a hearing officer and submit the contested claim directly to an appeals officer.

8. A claimant may, with regard to a contested claim arising from the provisions of NRS 617.453, 617.455, 617.457, 617.485 or 617.487 as described in subsection 2 of NRS 616C.345, submit the contested claim directly to an appeals officer pursuant to subsection 2 of NRS 616C.345 without the agreement of any other party.

Sec. 4.5. NRS 616C.330 is hereby amended to read as follows:

616C.330 1. The hearing officer shall:

(a) Except as otherwise provided in subsection 2 of NRS 616C.315, within 5 days after receiving a request for a hearing, set the hearing for a date and time within 30 days after his or her receipt of the request at a place in Carson City, Nevada, or Las Vegas, Nevada, or upon agreement of one or more of the parties to pay all additional costs directly related to an alternative location, at any other place of convenience to the parties, at the discretion of the hearing officer;

(b) Give notice by mail or by personal service to all interested parties to the hearing at least 15 days before the date and time scheduled; and

(c) Conduct hearings expeditiously and informally.

2. The notice must include a statement that the injured employee may be represented by a private attorney or seek assistance and advice from the Nevada Attorney for Injured Workers.

3. If necessary to resolve a medical question concerning an injured employee’s condition or to determine the necessity of treatment for which authorization for payment has been denied, the hearing officer may order an independent medical examination, which must not involve treatment, and refer the employee to a physician or chiropractor of his or her choice who has demonstrated special competence to treat the particular medical condition of the employee, whether or not the physician or chiropractor is on the insurer’s panel of providers of health care. If the medical question concerns the rating of a permanent disability, the hearing officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be
selected in rotation from the list of qualified physicians and chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any medical examination requested by the hearing officer.

4. The hearing officer may consider the opinion of an examining physician or chiropractor, physician assistant or advanced practice registered nurse, in addition to the opinion of an authorized treating physician or chiropractor, physician assistant or advanced practice registered nurse, in determining the compensation payable to the injured employee.

5. If an injured employee has requested payment for the cost of obtaining a second determination of his or her percentage of disability pursuant to NRS 616C.100, the hearing officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

6. The hearing officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay to the appropriate person the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

7. The hearing officer may allow or forbid the presence of a court reporter and the use of a tape recorder in a hearing.

8. The hearing officer shall render his or her decision within 15 days after:
   (a) The hearing; or
   (b) The hearing officer receives a copy of the report from the medical examination the hearing officer requested.

9. The hearing officer shall render a decision in the most efficient format developed by the Chief of the Hearings Division of the Department of Administration.

10. The hearing officer shall give notice of the decision to each party by mail. The hearing officer shall include with the notice of the decision the necessary forms for appealing from the decision.

11. Except as otherwise provided in NRS 616C.380, the decision of the hearing officer is not stayed if an appeal from that decision is taken unless an application for a stay is submitted by a party. If such an application is submitted, the decision is automatically stayed until a determination is made on the application. A determination on the application must be made within 30 days after the filing of the application. If, after reviewing the application, a stay is not granted by the hearing officer or an appeals officer, the decision must be complied with within 10 days after the refusal to grant a stay.

12. References to a physician assistant and an advanced practice registered nurse in this section are for the purposes of the examination and
treatment of an injured employee which are authorized to be provided by a
physician assistant or advanced practice registered nurse in the exclusive
case of an initial examination and treatment pursuant to NRS 616C.010.

Sec. 5. NRS 616C.335 is hereby amended to read as follows:

616C.335 1. If a contested claim for compensation is decided in favor of
the claimant, he or she is entitled to:

(a) An award of interest at the rate of 9 percent on the amount of
compensation due the claimant from the date the payment on the claim would
be due until the date that payment is made.

(b) As limited by subsection 2, an award of costs as are authorized
by NRS 18.110 against the opposing party as follows:

(1) Clerks' fees.

(2) Reporters' fees for depositions, including a reporter's fee for one
copy of each deposition.

(3) Fees for witnesses at an appeals hearing and deposing witnesses,
unless the appeals officer finds that the witness was called at the instance of
the prevailing party without reason or necessity.

(4) Reasonable fees of not more than five expert witnesses in an amount
of not more than the fee allowable for an independent medical examination as
set forth in the schedule of fees established by the Administrator pursuant to
NRS 616C.260 for each witness, unless the appeals officer allows a fee in a
greater amount after determining that the circumstances surrounding the
expert's testimony were of such necessity as to require the greater amount of
the fee.

(5) The fee of any sheriff or licensed process server for the delivery or
service of any summons or subpoena used in the action, unless the appeals
officer determines that the service was not necessary.

(6) Compensation for the official reporter or reporter pro tempore.

(7) Reasonable costs for photocopies.

(8) Reasonable costs for postage.

(9) Reasonable costs for travel and lodging incurred taking depositions
and conducting discovery.

(10) Any other reasonable and necessary expense incurred in connection
with the action, including reasonable and necessary expenses for
computerized services for legal research.

2. Costs awarded pursuant to subsection 1 must be limited to the costs
incurred as a result of the litigation of those issues which were decided in favor
of the claimant.

3. If a claimant is awarded costs pursuant to subsection 1, the claimant
shall serve on the insurer and the claimant's employer, not later than
15 calendar days after the decision of an appeals officer, district court, the
Court of Appeals or the Supreme Court, a memorandum of the costs in the
action or proceeding, which memorandum must be verified by the oath of the
claimant, or the claimant's attorney or agent, or by the clerk of the claimant's
attorney, stating that to the best of his or her knowledge and belief the costs are correct, and that the costs have been necessarily incurred in the action or proceeding.

4. Not later than 15 calendar days after receipt of service of a copy of a memorandum pursuant to subsection 3, the insurer shall issue to the claimant a determination letter regarding the requested costs, specifically stating in detail:

(a) The costs which are allowed pursuant to paragraph (b) of subsection 1 and subsection 2;

(b) The costs which are disallowed pursuant to paragraph (b) of subsection 1 and subsection 2, along with specific reasons for the disallowance of those costs.

5. Costs which are allowed by the insurer pursuant to subsection 4, must be paid along with the determination letter to the claimant or, if the claimant is represented, to the claimant’s counsel.

6. Any party aggrieved by the determination may file a request for appeal directly to an appeals officer not later than 30 days after receipt of the determination letter.

As used in this section, “costs” has the meaning ascribed to it in NRS 18.005.

Sec. 6. NRS 616C.345 is hereby amended to read as follows:

616C.345 1. Any party aggrieved by a decision of the hearing officer relating to a claim for compensation may appeal from the decision by, except as otherwise provided in subsections 9, 10 and 11, filing a notice of appeal with an appeals officer within 30 days after the date of the decision.

2. A claimant aggrieved by a written determination of the denial of a claim, in whole or in part, by an insurer, or the failure of an insurer to respond in writing within 30 days to a written request of the claimant mailed to the insurer, concerning a claim arising from the provisions of NRS 617.453, 617.455, 617.457, 617.485 or 617.487 may file a notice of a contested claim with an appeals officer. The notice must include the information required pursuant to subsection 3 and, except as otherwise provided in subsections 9, 10 and 11, must be filed within 70 days after the date on which the notice of the insurer’s determination was mailed or, if requested by the claimant or the person acting on behalf of the claimant, sent by facsimile or other electronic transmission the proof of sending and receipt of which is readily verifiable by the insurer or the unanswered written request was mailed to the insurer, as applicable. The failure of an insurer to respond in writing to a written request for a determination within 30 days after receipt of such a request shall be deemed by the appeals officer to be a denial of the request. The insurer shall provide, without cost, the forms necessary to file a notice of a contested claim to any person who requests them.

3. A hearing must not be scheduled until the following information is provided to the appeals officer:
(a) The name of:
   (1) The claimant;
   (2) The employer; and
   (3) The insurer or third-party administrator;
(b) The number of the claim; and
(c) If applicable, a copy of the letter of determination being appealed or, if such a copy is unavailable, the date of the determination and the issues stated in the determination.

4. If a dispute is required to be submitted to a procedure for resolving complaints pursuant to NRS 616C.305 and:
   (a) A final determination was rendered pursuant to that procedure; or
   (b) The dispute was not resolved pursuant to that procedure within 14 days after it was submitted,
any party to the dispute may, except as otherwise provided in subsections 9
and 10, and 11, to 12, inclusive, file a notice of appeal within 70 days after the date on which the final determination was mailed to the employee, or the dependent of the employee, or the unanswered request for resolution was submitted. Failure to render a written determination within 30 days after receipt of such a request shall be deemed by the appeals officer to be a denial of the request.

5. Except as otherwise provided in NRS 616C.380, the filing of a notice of appeal does not automatically stay the enforcement of the decision of a hearing officer or a determination rendered pursuant to NRS 616C.305. The appeals officer may order a stay, when appropriate, upon the application of a party. If such an application is submitted, the decision is automatically stayed until a determination is made concerning the application. A determination on the application must be made within 30 days after the filing of the application. If a stay is not granted by the officer after reviewing the application, the decision must be complied with within 10 days after the date of the refusal to grant a stay.

6. Except as otherwise provided in subsections 3 and 7, within 10 days after receiving a notice of appeal pursuant to this section or NRS 616C.220, 616D.140 or 617.401, or within 10 days after receiving a notice of a contested claim pursuant to subsection 7 of NRS 616C.315, the appeals officer shall:
   (a) Schedule a hearing on the merits of the appeal or contested claim for a date and time within 90 days after receipt of the notice at a place in Carson City, Nevada, or Las Vegas, Nevada, or upon agreement of one or more of the parties to pay all additional costs directly related to an alternative location, at any other place of convenience to the parties, at the discretion of the appeals officer; and
   (b) Give notice by mail or by personal service to all parties to the matter and their attorneys or agents at least 30 days before the date and time scheduled.
7. Except as otherwise provided in subsection 13, a request to schedule the hearing for a date and time which is:
   (a) Within 60 days after the receipt of the notice of appeal or contested claim; or
   (b) More than 90 days after the receipt of the notice or claim,
may be submitted to the appeals officer only if all parties to the appeal or contested claim agree to the request.

8. An appeal or contested claim may be continued upon written stipulation of all parties, or upon good cause shown.

9. The period specified in subsection 1, 2 or 4 within which a notice of appeal or a notice of a contested claim must be filed may be extended for an additional 90 days if the person aggrieved shows by a preponderance of the evidence that the person was diagnosed with a terminal illness or was informed of the death or diagnosis of a terminal illness of the person’s spouse, parent or child.

10. The period specified in subsection 2 within which a notice of appeal or a notice of a contested claim must be filed may be tolled if the insurer fails to mail or, if requested by the claimant or the person acting on behalf of the claimant, send a determination by facsimile or other electronic transmission the proof of sending and receipt of which is readily verifiable.

11. Failure to file a notice of appeal within the period specified in subsection 1 or 4 may be excused if the party aggrieved shows by a preponderance of the evidence that he or she did not receive the notice of the determination and the forms necessary to appeal the determination. The claimant, employer or insurer shall notify the hearing officer of a change of address.

12. Failure to file a notice of a contested claim within the period specified in subsection 2 may be excused if the claimant shows by a preponderance of the evidence that he or she did not receive the notice of the determination and the forms necessary to file the notice. The claimant or employer shall notify the insurer of a change of address.

13. Within 10 days after receiving a notice of a contested claim pursuant to subsection 2, the appeals officer shall:
   (a) Schedule a hearing on the merits of the contested claim for a date and time within 60 days after his or her receipt of the notice at a place in Carson City, Nevada, or Las Vegas, Nevada, or upon agreement of one or more of the parties to pay all additional costs directly related to an alternative location, at any other place of convenience to the parties, at the discretion of the appeals officer; and
   (b) Give notice by mail or by personal service to all parties to the matter and their attorneys or agents within 10 days after scheduling the hearing.

The scheduled date must allow sufficient time for full disclosure, exchange and examination of medical and other relevant information. A party may not
introduce information at the hearing which was not previously disclosed to the other parties unless all parties agree to the introduction.

Sec. 6.3. NRS 616C.350 is hereby amended to read as follows:

616C.350 1. Any physician or chiropractor who attends an employee within the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS in a professional capacity, may be required to testify before an appeals officer. A physician or chiropractor who testifies is entitled to receive the same fees as witnesses in civil cases and, if the appeals officer so orders at his or her own discretion, a fee equal to that authorized for a consultation by the appropriate schedule of fees for physicians or chiropractors, physician assistants or advanced practice registered nurses, if any. These fees must be paid by the insurer.

2. Information gained by the attending physician or chiropractor while in attendance on the injured employee is not a privileged communication if:
   (a) Required by an appeals officer for a proper understanding of the case and a determination of the rights involved; or
   (b) The information is related to any fraud that has been or is alleged to have been committed in violation of the provisions of this chapter or chapter 616A, 616B, 616D or 617 of NRS.

3. References to a physician assistant and an advanced practice registered nurse in this section are for the purposes of the examination and treatment of an injured employee which are authorized to be provided by a physician assistant or advanced practice registered nurse in the exclusive context of an initial examination and treatment pursuant to NRS 616C.010.

Sec. 6.7. NRS 616C.360 is hereby amended to read as follows:

616C.360 1. A stenographic or electronic record must be kept of the hearing before the appeals officer and the rules of evidence applicable to contested cases under chapter 233B of NRS apply to the hearing.

2. The appeals officer must hear any matter raised before him or her on its merits, including new evidence bearing on the matter.

3. If there is a medical question or dispute concerning an injured employee’s condition or concerning the necessity of treatment for which authorization for payment has been denied, the appeals officer may:
   (a) Order an independent medical examination and refer the employee to a physician or chiropractor of his or her choice who has demonstrated special competence to treat the particular medical condition of the employee, whether or not the physician or chiropractor is on the insurer’s panel of providers of health care. If the medical question concerns the rating of a permanent disability, the appeals officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians or chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer
and the injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any examination requested by the appeals officer.

(b) If the medical question or dispute is relevant to an issue involved in the matter before the appeals officer and all parties agree to the submission of the matter to an independent review organization, submit the matter to an independent review organization in accordance with NRS 616C.363 and any regulations adopted by the Commissioner.

4. The appeals officer may consider the opinion of an examining physician, physician assistant or advanced practice registered nurse, in addition to the opinion of an authorized treating physician, chiropractor, physician assistant or advanced practice registered nurse, in determining the compensation payable to the injured employee.

5. If an injured employee has requested payment for the cost of obtaining a second determination of his or her percentage of disability pursuant to NRS 616C.100, the appeals officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

6. The appeals officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay to the appropriate person the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

7. Any party to the appeal or contested case or the appeals officer may order a transcript of the record of the hearing at any time before the seventh day after the hearing. The transcript must be filed within 30 days after the date of the order unless the appeals officer otherwise orders.

8. Except as otherwise provided in subsection 9, the appeals officer shall render a decision:
   (a) If a transcript is ordered within 7 days after the hearing, within 30 days after the transcript is filed; or
   (b) If a transcript has not been ordered, within 30 days after the date of the hearing.

9. The appeals officer shall render a decision on a contested claim submitted pursuant to subsection 2 of NRS 616C.345 within 15 days after:
   (a) The date of the hearing; or
   (b) If the appeals officer orders an independent medical examination, the date the appeals officer receives the report of the examination,
       unless both parties to the contested claim agree to a later date.

10. The appeals officer may affirm, modify or reverse any decision made by a hearing officer and issue any necessary and proper order to give effect to his or her decision.
11. References to a physician assistant and an advanced practice registered nurse in this section are for the purposes of the examination and treatment of an injured employee which are authorized to be provided by a physician assistant or advanced practice registered nurse in the exclusive context of an initial examination and treatment pursuant to NRS 616C.010.

Sec. 7. NRS 616C.490 is hereby amended to read as follows:

616C.490 1. Except as otherwise provided in NRS 616C.175, every employee, in the employ of an employer within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by an accident arising out of and in the course of employment is entitled to receive the compensation provided for permanent partial disability. As used in this section, “disability” and “impairment of the whole person” are equivalent terms.

2. Except as otherwise provided in subsection 3:

(a) Within 30 days after receiving from a physician or chiropractor a report indicating that the injured employee may have suffered a permanent disability and is stable and ratable, the insurer shall schedule an appointment with the rating physician or chiropractor selected pursuant to this subsection to determine the extent of the employee’s disability.

(b) Unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor:

(1) The insurer shall select the rating physician or chiropractor from the list of qualified rating physicians and chiropractors designated by the Administrator, to determine the percentage of disability in accordance with the American Medical Association’s Guides to the Evaluation of Permanent Impairment as adopted and supplemented by the Division pursuant to NRS 616C.110.

(2) Rating physicians and chiropractors must be selected in rotation from the list of qualified physicians and chiropractors designated by the Administrator, according to their area of specialization and the order in which their names appear on the list unless the next physician or chiropractor is currently an employee of the insurer making the selection, in which case the insurer must select the physician or chiropractor who is next on the list and who is not currently an employee of the insurer.

3. Notwithstanding any other provision of law, an injured employee or the legal representative of an injured employee may, at any time, without limitation, request that the Administrator select a rating physician or chiropractor from the list of qualified physicians and chiropractors designated by the Administrator. The Administrator, upon receipt of the request, shall immediately select for the injured employee the rating physician or chiropractor who is next in rotation on the list, according to the area of specialization.

4. If an insurer contacts a treating physician or chiropractor to determine whether an injured employee has suffered a permanent disability, the insurer shall deliver to the treating physician or chiropractor that portion or a summary
of that portion of the American Medical Association’s Guides to the Evaluation of Permanent Impairment as adopted by the Division pursuant to NRS 616C.110 that is relevant to the type of injury incurred by the employee.

5. At the request of the insurer, the injured employee shall, before an evaluation by a rating physician or chiropractor is performed, notify the insurer of:
   (a) Any previous evaluations performed to determine the extent of any of the employee’s disabilities; and
   (b) Any previous injury, disease or condition sustained by the employee which is relevant to the evaluation performed pursuant to this section.

The notice must be on a form approved by the Administrator and provided to the injured employee by the insurer at the time of the insurer’s request.

6. Unless the regulations adopted pursuant to NRS 616C.110 provide otherwise, a rating evaluation must include an evaluation of the loss of motion, sensation and strength of an injured employee if the injury is of a type that might have caused such a loss. Except in the case of claims accepted pursuant to NRS 616C.180, no factors other than the degree of physical impairment of the whole person may be considered in calculating the entitlement to compensation for a permanent partial disability.

7. The rating physician or chiropractor shall provide the insurer with his or her evaluation of the injured employee. After receiving the evaluation, the insurer shall, within 14 days, provide the employee with a copy of the evaluation and notify the employee:
   (a) Of the compensation to which the employee is entitled pursuant to this section; or
   (b) That the employee is not entitled to benefits for permanent partial disability.

8. Each 1 percent of impairment of the whole person must be compensated by a monthly payment:
   (a) Of 0.5 percent of the claimant’s average monthly wage for injuries sustained before July 1, 1981;
   (b) Of 0.6 percent of the claimant’s average monthly wage for injuries sustained on or after July 1, 1981, and before June 18, 1993;
   (c) Of 0.54 percent of the claimant’s average monthly wage for injuries sustained on or after June 18, 1993, and before January 1, 2000; and
   (d) Of 0.6 percent of the claimant’s average monthly wage for injuries sustained on or after January 1, 2000.

Compensation must commence on the date of the injury or the day following the termination of temporary disability compensation, if any, whichever is later, and must continue on a monthly basis for 5 years or until the claimant is 70 years of age, whichever is later.

9. Compensation benefits may be paid annually to claimants who will be receiving less than $100 a month.
10. [Except as otherwise provided in subsection 11, if] If there is a previous disability, [as the loss of one eye, one hand, one foot, or any other previous permanent disability,] the percentage of disability for a subsequent injury must be determined [by computing the percentage of the entire disability and deducting therefrom the percentage of the previous disability as it existed at the time of the subsequent injury.] pursuant to section 1 of this act.

11. [If a rating evaluation was completed for a previous disability involving a condition, organ or anatomical structure that is identical to the condition, organ or anatomical structure being evaluated for the present disability, the percentage of disability for a subsequent injury must be determined by deducting the percentage of the previous disability from the percentage of the present disability, regardless of the edition of the American Medical Association’s Guides to the Evaluation of Permanent Impairment as adopted by the Division pursuant to NRS 616C.110 used to determine the percentage of the previous disability. The compensation awarded for a permanent disability on a subsequent injury must be reduced only by the awarded or agreed upon percentage of disability actually received by the injured employee for the previous injury regardless of the percentage of the previous disability.] In the event of a dispute over an award of compensation for permanent partial disability, the insurer shall commence making installment payments to the injured employee for that portion of the award that is not in dispute:
   (a) Not later than the date [specified in] by which such payment is required pursuant to subsection 8 or 9, as applicable; and
   (b) Without requiring the injured employee to make an election whether to receive his or her compensation in installment payments or in a lump sum.

12. The Division may adopt schedules for rating permanent disabilities resulting from injuries sustained before July 1, 1973, and reasonable regulations to carry out the provisions of this section.

13. The increase in compensation and benefits effected by the amendment of this section is not retroactive for accidents which occurred before July 1, 1973.

14. This section does not entitle any person to double payments for the death of an employee and a continuation of payments for a permanent partial disability, or to a greater sum in the aggregate than if the injury had been fatal.

Sec. 8. NRS 616C.495 is hereby amended to read as follows:

616C.495 1. Except as otherwise provided in NRS 616C.380, an award for a permanent partial disability may be paid in a lump sum under the following conditions:
   (a) A claimant injured on or after July 1, 1973, and before July 1, 1981, who incurs a disability that does not exceed 12 percent may elect to receive his or her compensation in a lump sum. A claimant injured on or after July 1, 1981, and before July 1, 1995, who incurs a disability that does not exceed 30 percent may elect to receive his or her compensation in a lump sum.
(b) The spouse, or in the absence of a spouse, any dependent child of a deceased claimant injured on or after July 1, 1973, who is not entitled to compensation in accordance with NRS 616C.505, is entitled to a lump sum equal to the present value of the deceased claimant’s undisbursed award for a permanent partial disability.

(c) Any claimant injured on or after July 1, 1981, and before July 1, 1995, who incurs a disability that exceeds 30 percent may elect to receive his or her compensation in a lump sum equal to the present value of an award for a disability of 30 percent. If the claimant elects to receive compensation pursuant to this paragraph, the insurer shall pay in installments to the claimant that portion of the claimant’s disability in excess of 30 percent.

(d) Any claimant injured on or after July 1, 1995, and before January 1, 2016, who incurs a disability that:

(1) Does not exceed 25 percent may elect to receive his or her compensation in a lump sum.

(2) Exceeds 25 percent may:

(I) Elect to receive his or her compensation in a lump sum equal to the present value of an award for a disability of 25 percent. If the claimant elects to receive compensation pursuant to this sub-subparagraph, the insurer shall pay in installments to the claimant that portion of the claimant’s disability in excess of 25 percent.

(II) To the extent that the insurer has offered to provide compensation in a lump sum up to the present value of an award for disability of 30 percent, elect to receive his or her compensation in a lump sum up to the present value of an award for a disability of 30 percent. If the claimant elects to receive compensation pursuant to this sub-subparagraph, the insurer shall pay in installments to the claimant that portion of the claimant’s disability in excess of 30 percent.

(e) Any claimant injured on or after January 1, 2016, and before July 1, 2017, who incurs a disability that:

(1) Does not exceed 30 percent may elect to receive his or her compensation in a lump sum.

(2) Exceeds 30 percent may elect to receive his or her compensation in a lump sum equal to the present value of an award for a disability of 30 percent. If the claimant elects to receive compensation pursuant to this subparagraph, the insurer shall pay in installments to the claimant that portion of the claimant’s disability in excess of 30 percent.

(f) Any claimant injured on or after July 1, 2017, who incurs a disability that exceeds 30 percent may elect to receive his or her compensation in a lump sum equal to the present value of an award for a disability of up to 30 percent. If the claimant elects to receive compensation pursuant to this paragraph, the insurer shall pay in installments to the claimant that portion of the claimant’s disability in excess of 30 percent.
(g) If the permanent partial disability rating of a claimant seeking compensation pursuant to this section would, when combined with any previous permanent partial disability rating of the claimant that resulted in an award of benefits to the claimant, result in the claimant having a total permanent partial disability rating in excess of 100 percent, the claimant’s disability rating upon which compensation is calculated must be reduced by such percentage as required to limit the total permanent partial disability rating of the claimant for all injuries to not more than 100 percent.

2. If the claimant elects to receive his or her payment for a permanent partial disability in a lump sum pursuant to subsection 1, all of the claimant’s benefits for compensation terminate. Except as otherwise provided in paragraph (d), the claimant’s acceptance of that payment constitutes a final settlement of all factual and legal issues in the case. By so accepting the claimant waives all of his or her rights regarding the claim, including the right to appeal from the closure of the case or the percentage of his or her disability, except:

(a) The right of the claimant to:
   (1) Reopen his or her claim in accordance with the provisions of NRS 616C.390; or
   (2) Have his or her claim considered by his or her insurer pursuant to NRS 616C.392;

(b) Any counseling, training or other rehabilitative services provided by the insurer; and

(c) The right of the claimant to receive a benefit penalty in accordance with NRS 616D.120.

(d) The right of the claimant to conclude or resolve any contested matter which is pending at the time that the claimant executes his or her election to receive his or her payment for a permanent partial disability in a lump sum. The provisions of this paragraph do not apply to:

   (1) The scope of the claim;
   (2) The claimant’s stable and ratable status; and
   (3) The claimant’s average monthly wage.

3. The claimant, when he or she demands payment in a lump sum pursuant to subsection 2, must be provided with a written notice which prominently displays a statement describing the effects of accepting payment in a lump sum of an entire permanent partial disability award, any portion of such an award or any uncontested portion of such an award, and that the claimant has 20 days after the mailing or personal delivery of the notice within which to retract or reaffirm the demand, before payment may be made and the claimant’s election becomes final.

4. Any lump-sum payment which has been paid on a claim incurred on or after July 1, 1973, must be supplemented if necessary to conform to the provisions of this section.
Except as otherwise provided in this subsection, the total lump-sum payment for disablment must not be less than one-half the product of the average monthly wage multiplied by the percentage of disability. If the claimant received compensation in installment payments for his or her permanent partial disability before electing to receive payment for that disability in a lump sum, the lump-sum payment must be calculated for the remaining payment of compensation.

The lump sum payable must be equal to the present value of the compensation awarded, less any advance payment or lump sum previously paid. The present value must be calculated using monthly payments in the amounts prescribed in subsection 8 of NRS 616C.490 and actuarial annuity tables adopted by the Division. The tables must be reviewed annually by a consulting actuary and must be adjusted accordingly on July 1 of each year by the Division using:

(a) The most recent unisex “Static Mortality Tables for Defined Benefit Pension Plans” published by the Internal Revenue Service; and
(b) The average 30-Year Treasury Constant Maturity Rate for March of the current year as reported by the Board of Governors of the Federal Reserve System.

If a claimant would receive more money by electing to receive compensation in a lump sum than the claimant would if he or she receives installment payments, the claimant may elect to receive the lump-sum payment.

Sec. 9. NRS 616C.541 is hereby amended to read as follows:

Where a written assessment is requested pursuant to NRS 616C.550 or where a plan for a program of vocational rehabilitation is required pursuant to NRS 616C.555, a vocational rehabilitation counselor must be appointed as follows:

1. The insurer and the injured employee or personal or legal representative of the injured employee shall agree on the selection of a vocational rehabilitation counselor.

2. If the insurer or injured employee or personal or legal representative of the injured employee are unable to agree on the appointment of a vocational rehabilitation counselor, the insurer shall submit a list of at least three vocational rehabilitation counselors who are employed by at least three different organizations or entities to the injured employee or personal or legal representative of the injured employee. The insurer may not include in the list any two vocational rehabilitation counselors who are employed by the same organization or entity.

3. The injured employee or personal or legal representative of the injured employee shall select a vocational rehabilitation counselor from the list provided by the insurer pursuant to subsection 2 within 7 days after receiving the list provided by the insurer pursuant to subsection 2.
4. The vocational rehabilitation counselor that is selected by the injured employee or personal or legal representative of the injured employee pursuant to subsection 1 or 3 must be assigned to provide all vocational rehabilitation services for the claim pursuant to this section and NRS 616C.530 to 616C.600, inclusive. [and]

5. After a vocational rehabilitation counselor is selected and assigned pursuant to this section, an injured employee or personal or legal representative of the injured employee may only rescind the selection of the vocational rehabilitation counselor with the consent of the insurer.

Sec. 9.5. NRS 616C.545 is hereby amended to read as follows:

616C.545 1. If an employee does not return to work for 28 consecutive calendar days as a result of an injury arising out of and in the course of his or her employment or an occupational disease, the insurer shall contact the treating physician, chiropractor, physician assistant or advanced practice registered nurse to determine whether:

(a) There are physical limitations on the injured employee’s ability to work; and

(b) The limitations, if any, are permanent or temporary.

2. References to a physician assistant and an advanced practice registered nurse in this section are for the purposes of the examination and treatment of an injured employee which are authorized to be provided by a physician assistant or advanced practice registered nurse in the exclusive context of an initial examination and treatment pursuant to NRS 616C.010.

Sec. 10. NRS 617.356 is hereby amended to read as follows:

617.356 1. An insurer shall accept or deny a claim for compensation under this chapter and notify the claimant or the person acting on behalf of the claimant pursuant to NRS 617.344 that the claim has been accepted or denied within 30 working days after the forms for filing the claim for compensation are received pursuant to both NRS 617.344 and 617.352.

2. The insurer shall notify the claimant or the person acting on behalf of the claimant that a claim has been accepted or denied pursuant to subsection 1 by:

(a) Mailing its written determination to the claimant or the person acting on behalf of the claimant [and]

(b) If, if the claim has been denied, in whole or in part, obtaining a certificate of mailing [or]

(b) If and as requested by the claimant or the person acting on behalf of the claimant, sending its written determination to the claimant or the person acting on behalf of the claimant by facsimile or other electronic transmission the proof of sending and receipt of which is readily verifiable and retaining proof of a successful transmission and receipt of the facsimile [or] other electronic transmission, as applicable.

3. The failure of the insurer to [obtain], as applicable:
(a) Obtain a certificate of mailing as required by paragraph (b) of subsection 2 shall be deemed to be a failure of the insurer to mail the written determination of the denial of a claim as required by this section: or

(b) Retain proof of a successful transmission and receipt of the facsimile or other electronic transmission the proof of sending and receipt of which is readily verifiable, as applicable, as required by paragraph (b) of subsection 2 shall be deemed to be a failure of the insurer to send by facsimile or other electronic transmission the written determination regarding a claim as required by this section.

4. Upon request, the insurer shall provide a copy of the certificate of mailing, if any, or proof of a successful transmission and receipt of the facsimile or other electronic transmission the proof of sending and receipt of which is readily verifiable, as applicable, to the claimant or the person acting on behalf of the claimant.

5. For the purposes of this section, the insurer shall mail either:

(a) Mail the written determination to:

1. The mailing address of the claimant or the person acting on behalf of the claimant that is provided on the form prescribed by the Administrator for filing the claim; or

2. Another mailing address if the claimant or the person acting on behalf of the claimant provides to the insurer written notice of another mailing address: or

(b) If and as requested by the claimant or the person acting on behalf of the claimant, send the written determination by facsimile or other electronic transmission the proof of sending and receipt of which is readily verifiable to the claimant or person acting on behalf of the claimant.

6. As used in this section, “certificate of mailing” means a receipt that provides evidence of the date on which the insurer presented its written determination to the United States Postal Service for mailing.

Sec. 11. The amendatory provisions of this act apply prospectively with regard to any claim pursuant to chapters 616A to 616D, inclusive, or 617 of NRS which is open on the effective date of this act.

Sec. 12. This act becomes effective upon passage and approval.

Senator Spearman moved the adoption of the amendment.

Remarks by Senator Spearman.

(To be entered at a later date.)

Amendment adopted.

Bill read third time.

Remarks by Senator Harris.

(To be entered at a later date.)

Roll call on Senate Bill No. 289:

YEAS—21.

NAYS—None.
Senate Bill No. 289 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 303.
Bill read third time.

The following amendment was proposed by the Committee on Growth and Infrastructure:

Amendment No. 226.

SUMMARY—Revises provisions relating to professions. (BDR 54-669)
AN ACT relating to contractors; prohibiting a person from performing [for a fee] any work concerning residential photovoltaic systems used to produce electricity without the proper license or other authorization under state law; establishing certain requirements for work concerning residential photovoltaic systems and contracts relating thereto; requiring the State Contractors’ Board to adopt regulations establishing certain standards for advertisements for work concerning residential photovoltaic systems; [prohibiting contractors from acting in certain capacities in certain companies, corporations and business entities] providing that a contract for work concerning a residential photovoltaic system is not enforceable against an owner of a single-family residence under certain circumstances; authorizing the Board to require contractors who perform work concerning residential photovoltaic systems to obtain the services of a construction control, a performance bond or payment bond under certain circumstances; providing for [disciplinary action by the Board] penalties against a contractor who performs work concerning residential photovoltaic systems for certain violations; [providing penalties] and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law governs the work of licensed contractors. (Chapter 624 of NRS) Sections 3-5 of this bill define the terms “contract,” “contractor,” “electric utility,” “residential photovoltaic system” and “work concerning a residential photovoltaic system used to produce electricity” for the purposes of certain provisions governing work concerning such systems and the licensees of the State Contractors’ Board who perform that work.

Section 6 of this bill prohibits a person from performing [for a fee] any work on residential photovoltaic systems used to produce electricity without the proper license or other authorization under state law.

Section 7 of this bill sets forth the requirements for: (1) all work concerning residential photovoltaic systems used to produce electricity; (2) the contractors and subcontractors who perform the work; and (3) the owner-builders who direct the work.

Section 8 of this bill sets forth contractual requirements for the performance of work concerning residential photovoltaic systems used to produce electricity.
Section 9 of this bill: requires (1) authorizes the State Contractors’ Board to adopt regulations establishing certain provisions which must be included in a contract for work concerning a residential photovoltaic system used to produce electricity; and (2) requires the contractor for such work to apply for and obtain all necessary permits and approvals.

Section 10 of this bill: (1) establishes certain requirements and prohibitions relating to advertisements and solicitations for work concerning residential photovoltaic systems used to produce electricity; (2) requires the Board to adopt by regulation standards for advertisements for work concerning residential photovoltaic systems used to produce electricity including provisions prohibiting “bait and switch” advertising; and (3) prohibits a contractor from certain uses of advertisements that do not comply with the standards adopted by the Board.

Section 11 of this bill prohibits a contractor who performs work concerning residential photovoltaic systems used to produce electricity from acting as an officer, director, employee or owner of certain companies, corporations, or business entities with certain financial interests in work concerning residential photovoltaic systems used to produce electricity.

Section 12 of this bill sets forth certain circumstances under which a contract for work concerning a residential photovoltaic system used to produce electricity is not enforceable against the owner of a single-family residence.

Section 13 of this bill authorizes the Board to require a contractor to obtain the services of a construction control if the Board determines that the contractor has violated certain provisions of law or regulation.

Section 14 of this bill provides that a violation of any provision of sections 2-14 of this bill constitutes cause for disciplinary action against a contractor by the Board and may be reported to the Office of the Attorney General as a potential deceptive trade practice.

Existing law authorizes the Board to require a contractor who performs certain work to obtain performance and payment bonds if the contractor: (1) is determined by the Board to have committed certain violations; (2) enters into a contract that is later found to be void and unenforceable against an owner; or (3) has five valid complaints filed against him or her with the Board within a 15-day period. (NRS 624.270) Section 15 of this bill: makes these provisions applicable to contractors who perform work concerning residential photovoltaic systems used to produce electricity; and (2) authorizes the Board to require a contractor who performs certain work to obtain performance and payment bonds if the contractor enters into a contract that is later voided by the owner of the single-family residence.

Existing law sets forth certain acts and omissions that constitute cause for disciplinary action against a contractor by the Board. (NRS 624.3016) Section 16 of this bill provides that a contractor’s failure to comply with certain provisions of this bill or regulations adopted by the Board governing
contracts for work concerning residential photovoltaic systems used to produce electricity constitutes cause for such disciplinary action.

Existing law sets forth the applicability of certain provisions governing construction controls. (NRS 627.175) Section 17 of this bill provides that those provisions apply to a contractor who is required to obtain the services of a construction control to perform work concerning residential photovoltaic systems used to produce electricity.

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

Section 1. Chapter 624 of NRS is hereby amended by adding the to the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. As used in sections 2 to 14, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 5, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 3. “Contract” means any contract or agreement as described in NRS 598.9801 to 598.9822, inclusive, in which a contractor agrees to perform work concerning a residential photovoltaic system used to produce electricity.

Sec. 4. “Contractor” means a person licensed pursuant to the provisions of this chapter who performs work concerning residential photovoltaic systems used to produce electricity.

Sec. 4.3. “Electric utility” has the meaning ascribed to it in NRS 704.187.

Sec. 4.7. “Residential photovoltaic system” includes a distributed generation system as that term is defined in NRS 598.9804.

Sec. 5. “Work concerning a residential photovoltaic system used to produce electricity” or “work” means any of the following acts:

(a) The construction, repair, maintenance, restoration, alteration or improvement of any photovoltaic system used to produce or store electricity on the customer’s side of an electric meter on a single-family residence, including, without limitation, the repair or replacement of existing equipment or the installation of new equipment, as necessary; or

(b) Any activity for the supervision concerning such work.

2. The scope of such work includes the installation, alteration and repair of photovoltaic cells, batteries, inverters and storage systems used in the conversion of solar energy into electricity and the storage of that electricity on the customer’s side of an electric meter on a single-family residence.

3. The term does not include:

(a) Education regarding solar photovoltaics;

(b) Energy audits; or

(c) The advertising or solicitation of such work.

Sec. 6. A person shall not, directly or indirectly, perform or offer to perform any work concerning a residential photovoltaic system used to produce electricity for any consultation or supervision concerning
such work or otherwise hold himself or herself out as being able to perform such acts for a fee, unless the person holds:

1. A license [for a contractor or subcontractor under state law] issued pursuant to this chapter which authorizes the person to perform such [acts for a fee] work; or

2. Any other license, certificate, registration or permit under state law which authorizes the person to perform such [acts for a fee] work.

Sec. 7. 1. Any contractor [or subcontractor] who performs work concerning a residential photovoltaic system used to produce electricity shall, regardless of whether the work is performed under the direction of a builder who is also the owner of the [property] single-family residence on which the work is being [improved] performed:

(a) Apply for and obtain all applicable permits for the work; [and]

(b) Meet all applicable requirements imposed pursuant to this chapter and any regulations adopted by the Board with respect to contracts for work concerning a residential photovoltaic system used to produce electricity [and]

(c) Meet all applicable requirements imposed by the Public Utilities Commission of Nevada or any system for the distribution of electricity to which the work will interconnect.

2. If a contractor [or subcontractor] performs work concerning a residential photovoltaic system used to produce electricity and the work is performed under the direction of a builder who is also the owner of the [property] single-family residence on which the work is being [improved] performed, the owner [of the property] shall comply with all state and local laws and ordinances for the submission of names, licenses and information concerning any required bonds and insurance with respect to the contractors [and subcontractors] working on the work.

3. [With respect to a contract for work concerning a residential photovoltaic system used to produce electricity, the work performed pursuant to such a contract must be supervised and controlled directly by a qualified employee or qualified officer of the contractor.]

[If work concerning a residential photovoltaic system used to produce electricity is performed under the direction of a builder who is exempt from having to obtain a license as a contractor because the builder is also the owner of the [property] single-family residence on which the work is being [improved] performed, a person shall not, directly or indirectly, perform or offer to perform [for a fee] any act as a consultant, adviser, assistant or aide to the builder for the purposes of the [work] project, including, without limitation, any act associated with obtaining permits for the [work] project, or otherwise hold himself or herself out as being able to perform such acts [for a fee], unless the person holds:
(a) A license issued pursuant to this chapter which authorizes the person to perform such acts;

(b) Any other license, certificate, registration or permit under state law which authorizes the person to perform such acts.

Sec. 8. 1. A contractor who receives an initial down payment or deposit of $1,000 or 10 percent of the aggregate contract price, whichever is less, for work concerning a residential photovoltaic system used to produce electricity shall start the work within 30 days after the date all necessary permits for the work and all necessary approvals from an electric utility into whose system the residential photovoltaic system used to produce electricity will interconnect, if any, are issued, unless the person who made the payment agrees in writing to a longer period. The written agreement may specify a period for applying for all necessary permits, for starting the work after the issuance of the permits, or both.

2. A contractor who receives money for work concerning a residential photovoltaic system used to produce electricity shall complete the work diligently and shall not refuse to perform any work agreed to in the contract for any 30-day period.

3. Except as otherwise provided in subsection 4, if satisfactory payment is made for any portion of the work performed, the contractor shall, before any further payment is made, furnish to the owner of the property on which the work was performed a full and unconditional release of the contractor's claim for a mechanic's lien for that portion of the work for which payment has been made.

4. The requirements of subsection 3 do not apply if the contract for the work provides for the contractor to furnish a bond for payment and performance or joint control covering full performance and completion of the contract and the bond or joint control is furnished by the contractor.

5. A contract for work concerning a residential photovoltaic system used to produce electricity must contain a written statement explaining the rights of the customer under sections 2 to 14, inclusive, of this act and other relevant statutes, including, without limitation, NRS 598.9801 to 598.9822, inclusive.

6. A contractor may require final payment for the final stage or phase of the construction of a residential photovoltaic system used to produce electricity after the system is deemed complete and any required inspections are completed.

Sec. 9. 1. The Board may adopt by regulation mandatory elements to be included in all contracts to be used by contractors for work concerning a residential photovoltaic system used to produce electricity. Such mandatory elements must not be waived or limited by contract or in any other manner. On and after October 1, 2021, any contract entered into between a contractor and the owner of a single-family residence for work concerning a
residential photovoltaic system used to produce electricity must comply with
the [mandatory elements] provisions of sections 2 to 14, inclusive, of this act
and all applicable regulations adopted by the Board. A contract that does not
comply with the [mandatory elements] provisions of sections 2 to 14, inclusive,
of this act and all applicable regulations adopted by the Board is [void and
unenforceable against] voidable by the owner of the single-family residence.

2. Any [such] contract [for an amount of more than $1,000] for work
concerning a residential photovoltaic system used to produce electricity must
contain in writing at least the following information:
   (a) The name of the contractor, [and] his or her [business] address and
   contractor’s license number [.] and the monetary limit on that license.
   (b) The name and mailing address of the owner of the single-family
   residence on which the work is being performed and the address or legal
description of the property.
   (c) The date of execution of the contract.
   (d) The estimated date of completion of all work to be performed under the
   contract.
   (e) A description of the work to be performed under the contract.
   (f) The total amount to be paid to the contractor by the owner of the
   single-family residence for all work to be performed under the contract,
   including all applicable taxes.
   (g) The amount, not to exceed $1,000 or 10 percent of the aggregate
   contract price, whichever is less, of any initial down payment or deposit paid
   or promised to be paid to the contractor by the owner before the start of
   construction.
   (h) A statement that the contractor has provided the owner of the
   single-family residence with the notice and informational form required by
   NRS 624.600.
   (i) A statement that any [additional] change in the scope or price of the
   work to be performed under the contract [whether or not pursuant to a
   change order, which will require the owner to pay additional money and any
   other change in the terms in the original contract] must be agreed to in writing
   by the parties and incorporated into the original contract as a change order.
   A change order is not enforceable against the owner of the single-family
   residence who is contracting for work concerning a residential photovoltaic
   system used to produce electricity unless the change order [clearly] sets forth
   [that] all changes in the scope and price of the work [to be completed and the
   price to be charged for the changes] and is [signed] accepted by the owner [.] of
   the single-family residence.
   (j) [For a project of new work concerning a residential photovoltaic
   system used to produce electricity, a plan and scale drawing showing the
   shape, size and dimensions of and the specifications for the construction and
   equipment for the work specified in the contract, and a description of the work
to be done, the materials to be used and the equipment to be installed, and the]
agreed consideration for the work. For projects which consist exclusively of repairs to existing work concerning a residential photovoltaic system used to produce electricity, plans, scale drawings, equipment specifications and lists of materials and equipment are not required to be contained in or included with the contract.

(k) Except as otherwise provided in this subsection and subsection 3, the dollar amount of any progress payment and the stage of construction at which the contractor will be entitled to collect progress payments from the owner of the single-family residence during the course of construction under a contract for the installation of a residential photovoltaic system used to produce electricity. The schedule of payments must show the amount of each payment as a sum in dollars and cents. The schedule of payments must not provide for the contractor to receive, nor may the contractor actually receive, payments in excess of 100 percent of the value of the work performed on the project at any time, excluding finance charges, except for an initial down payment or deposit as authorized by subsection 1 of section 8 of this act.

With respect to a contract executed before October 1, 2021, if any schedule of payments set forth in the contract does not comply with the provisions of this chapter or any regulations adopted pursuant thereto:

(1) The obligation of the owner of the single-family residence to make payments in accordance with the payment schedule is voidable; and

(2) The lender, if any, may not initiate proceedings to enforce the payment of any applicable loan unless and until the contract is reformed or otherwise amended to comply with those provisions of law.

The provisions of this paragraph do not apply if the contractor has furnished a bond for payment and performance covering full performance and completion of the contract and the cost of the bond is included in the price of the project or if the contractor builds a residential photovoltaic system used to produce electricity as part of the original building plan pursuant to which the contractor builds a single-family residence on the premises.

(l) If a contract with the owner of a single-family residence for the installation of a residential photovoltaic system used to produce electricity provides for payment of a commission to a salesperson out of the contract price, a statement that the payment must be made on a pro rata basis in proportion to the schedule of payments made to the contractor by the disbursing party in accordance with the provisions of paragraph (k).

(m) A disclosure of the retail price of a kilowatt-hour, any offsetting tariff and the identity of the electric utility that furnishes electric service to the single-family residence at the time the contract is executed.

Except as otherwise provided in subsection 6, the contract may contain such other conditions, stipulations or provisions as to which the parties may agree.

3. The provisions of paragraph (k) of subsection 2 do not apply if:
(a) The contractor has furnished a bond for payment and performance covering full performance and completion of the contract and the cost of the bond is included in the price of the project;
(b) The contractor builds a residential photovoltaic system used to produce electricity as part of the original building plan pursuant to which the contractor builds a single-family residence on the premises; or
(c) The owner of the single-family residence has:
   (1) Purchased the residential photovoltaic system used to produce electricity pursuant to a power purchase agreement as defined in NRS 598.9807; or
   (2) Leased the residential photovoltaic system used to produce electricity pursuant to a monthly lease contract.
4. The contract must contain:
   (a) A method whereby the owner of the single-family residence may initial provisions of the contract, thereby indicating that those provisions have been read and are understood.
   (b) In close proximity to the signatures of the owner of the single-family residence and the contractor, a notice stating that the owner:
      (1) May contact the Board or the Public Utilities Commission of Nevada if assistance is needed to clarify any of the provisions of the contract that the owner of the single-family residence does not fully understand;
      (2) Has the right to request a bond for payment and performance if such a bond is not otherwise required pursuant to NRS 624.270.
       (3) May contact an attorney for an explanation of the rights of the owner of the single-family residence under the contract; and
       (4) May, if the contract was explained in a language other than the language in which the contract is written, ask for a contract that is written in the language in which the contract was explained.
5. At the time the owner of the single-family residence signs the contract, the contractor shall furnish to the owner of the single-family residence a legible copy of all documents signed and a written and signed receipt for any money paid to the contractor by the owner of the single-family residence. All written information provided in the contract must be printed in at least 10-point type. The contract, receipt and other documents referenced in this subsection may be delivered by electronic means.
6. A condition, stipulation or provision in a contract that requires a person to waive any right provided by sections 2 to 14, inclusive, of this act or this chapter or any regulations adopted pursuant to this chapter thereto or relieves a person of an obligation or liability imposed by this chapter or those regulations is void. Failure to comply with the requirements of sections 2 to 14, inclusive, of this act of this section renders a contract void and unenforceable against the owner.
of the single-family residence.

7. The contractor shall apply for and obtain all necessary permits and approvals from an electric utility into whose system the residential photovoltaic system used to produce electricity will interconnect.

Sec. 10. 1. Advertisements and solicitations for work concerning a residential photovoltaic system used to produce electricity must be truthful and not materially misleading.

2. A person who makes an advertisement or solicitation for work concerning a residential photovoltaic system used to produce electricity shall not expressly or implicitly state that the person will perform the work, enter into a contract, express or implied, to perform the work or act as a contractor to perform the work unless the person holds:

(a) A license issued pursuant to this chapter which authorizes the person to perform the work; or

(b) Any other license, certificate, registration or permit under state law which authorizes the person to perform the work.

as provided pursuant to section 6 of this act.

3. A contractor shall not cause to be published or display any advertisement that does not comply with the standards adopted by the Board pursuant to subsection 4.

4. The Board shall adopt by regulation standards for advertisements used by contractors in connection with the solicitation or sale of contracts for work concerning residential photovoltaic systems used to produce electricity.

2. The regulations adopted pursuant to subsection 1 must prohibit a contractor from employing “bait and switch” advertising or otherwise intentionally publishing, displaying or circulating any advertisement which is misleading or inaccurate in any material particular or which misrepresents any of the goods or services sold or furnished by the contractor to members of the public.

3. The Board shall, in adopting the standards required by subsection 1, give consideration to the provisions of chapter 598 of NRS relating to advertisements that constitute deceptive trade practices and, to the extent practicable, adopt standards that are at least as stringent as those provisions.

4. A contractor shall not cause to be published or display or circulate any advertisement that does not comply with the standards adopted by the Board pursuant to subsection 4.

5. As used in this section, “bait and switch” advertising has the meaning ascribed to it in NRS 482.351.

Sec. 11. 1. Except as otherwise provided in this section and section 12 of this act, a contractor who performs work concerning a residential photovoltaic system used to produce electricity shall not act as or carry out the duties of an officer, director, employee or owner of a bonding company, finance company, or any other corporation or business entity who assigns, underwrites, obtains a deed of trust for, issues, sells, purchases or acquires a
loan to finance work concerning a residential photovoltaic system used to produce electricity.

2. The provisions of this section do not prohibit a contractor from owning, holding or possessing, either directly or indirectly through a mutual fund or any other financial arrangement or investment plan, any stocks or other securities issued by a company, corporation or business entity described in subsection 1 if:
   (a) The stocks or other securities are offered openly to the public through a securities exchange; and
   (b) The contractor does not own, hold or possess a controlling interest in the company, corporation or business entity.

Sec. 12. 1. A contract for work concerning a residential photovoltaic system used to produce electricity is not enforceable against the owner of a single-family residence on which the work is being performed if the obtaining of a loan for all or a portion of the contract price is a condition precedent to the contract unless both of the following requirements are satisfied:
   (a) A third party agrees to make the loan or give the financing.
   (b) The owner of the single-family residence agrees to accept the loan or financing.

2. Unless and until all applicable requirements of subsection 1 are satisfied, a contractor shall not:
   (a) Perform or deliver any work, labor, material or services; or
   (b) Represent in any manner that the contract is enforceable or that the owner of the single-family residence has any obligation under the contract.

3. A contract for work concerning a residential photovoltaic system used to produce electricity is not enforceable against the owner if the contractor provides a loan or gives financing for all or a portion of the contract price unless all of the following requirements are satisfied:
   (a) The owner agrees to accept the loan or financing.
   (b) The owner does not rescind the loan or financing transaction within the period prescribed for rescission pursuant to the Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., or chapter 598 of NRS, if applicable.

4. Unless and until all applicable requirements of subsection 3 are satisfied, a contractor shall not:
   (a) Perform or deliver any work, labor, material or services; or
   (b) Represent in any manner that the contract is enforceable or that the owner has any obligation under the contract.

5. A contract for work concerning a residential photovoltaic system used to produce electricity is not enforceable against the owner if the contractor receives from a third party, either directly or indirectly, remuneration or any
other thing of value for a loan to finance the work and that fact is not disclosed in writing in the contract.

6. As used in this section, “third party” means a bonding company, finance company, or any other corporation or business entity who assigns, underwrites, obtains a deed of trust for, issues, sells, purchases or acquires a loan to finance work concerning a residential photovoltaic system used to produce electricity.

Sec. 13. 1. If a contractor who performs work concerning a residential photovoltaic system used to produce electricity is determined by the Board to have violated:

(a) One or more of the provisions of NRS 624.301 to 624.305, inclusive, or section 6, 8 or 9 of this act; or

(b) Any regulation adopted by the Board with respect to contracts for work concerning a residential photovoltaic system used to produce electricity,

the Board may require that the contractor obtain the services of a construction control for each contract that the contractor enters into for work concerning a residential photovoltaic system used to produce electricity.

2. The contractor may not:

(a) Be related to the construction control or to an employee or agent of the construction control; or

(b) Hold, directly or indirectly, a financial interest in the business of the construction control.

3. As used in this section, “construction control” has the meaning ascribed to it in NRS 627.050.

Sec. 14. 1. A violation of any provision of sections 2 to 14, inclusive, of this act or any regulation adopted by the Board with respect to contracts for work concerning a residential photovoltaic system used to produce electricity by a contractor [constitutes]:

(a) Constitutes cause for disciplinary action pursuant to NRS 624.300 [.

(b) May be reported to the Office of the Attorney General as a potential deceptive trade practice pursuant to chapter 598 of NRS.

2. It is unlawful for a person to violate any provision of sections 2 to 14, inclusive, of this act.

3. Any person who violates any provision of sections 2 to 14, inclusive, of this act [:

(a) For a first offense, is guilty of a misdemeanor and shall be punished by a fine of not more than $1,000, and may be further punished by imprisonment in the county jail for not more than 6 months.

(b) For the second offense, is guilty of a gross misdemeanor and shall be punished by a fine of not less than $2,000 nor more than $4,000, and may be further punished by imprisonment in the county jail for not more than 364 days.
For the third or subsequent offense, is guilty of a category E felony and shall be punished by a fine of not less than $5,000 nor more than $10,000 and may be further punished by imprisonment in the state prison for not less than 1 year and not more than 4 years.

shall be penalized pursuant to the applicable provisions of NRS 624.700 and 624.750.

4. The imposition of a penalty provided for in this section is not precluded by any disciplinary action taken by the Board against a contractor pursuant to the provisions of NRS 624.300 to 624.305, inclusive.

Sec. 15. NRS 624.270 is hereby amended to read as follows:

624.270 1. Before issuing a contractor’s license to any applicant, the Board shall require that the applicant:

(a) File with the Board a surety bond in a form acceptable to the Board executed by the contractor as principal with a corporation authorized to transact surety business in the State of Nevada as surety; or

(b) In lieu of such a bond, establish with the Board a cash deposit as provided in this section.

2. Before granting renewal of a contractor’s license to any applicant, the Board shall require that the applicant file with the Board satisfactory evidence that the applicant’s surety bond or cash deposit is in full force, unless the applicant has been relieved of the requirement as provided in this section.

3. Failure of an applicant or licensee to file or maintain in full force the required bond or to establish the required cash deposit constitutes cause for the Board to deny, revoke, suspend or refuse to renew a license.

4. Except as otherwise provided in subsection 6, the amount of each bond or cash deposit required by this section must be fixed by the Board with reference to the contractor’s financial and professional responsibility and the magnitude of the contractor’s operations, but must be not less than $1,000 or more than $500,000. The bond must be continuous in form and must be conditioned that the total aggregate liability of the surety for all claims is limited to the face amount of the bond irrespective of the number of years the bond is in force. A bond required by this section must be provided by a person whose long-term debt obligations are rated “A” or better by a nationally recognized rating agency. The Board may increase or reduce the amount of any bond or cash deposit if evidence supporting such a change in the amount is presented to the Board at the time application is made for renewal of a license or at any hearing conducted pursuant to NRS 624.2545 or 624.291. Unless released earlier pursuant to subsection 5, any cash deposit may be withdrawn 2 years after termination of the license in connection with which it was established, or 2 years after completion of all work authorized by the Board after termination of the license, whichever occurs later, if there is no outstanding claim against it.

5. After a licensee has acted in the capacity of a licensed contractor in the State of Nevada for not less than 5 consecutive years, the Board may relieve the licensee of the requirement of filing a bond or establishing a cash deposit
if evidence supporting such relief is presented to the Board. The Board may at any time thereafter require the licensee to file a new bond or establish a new cash deposit as provided in subsection 4:

(a) If evidence is presented to the Board supporting this requirement;
(b) Pursuant to subsection 6, after notification of a final written decision by the Labor Commissioner; or
(c) Pursuant to subsection 7.

If a licensee is relieved of the requirement of establishing a cash deposit, the deposit may be withdrawn 2 years after such relief is granted, if there is no outstanding claim against it.

6. If the Board is notified by the Labor Commissioner pursuant to NRS 607.165 or otherwise receives notification that three substantiated claims for wages have been filed against a contractor within a 2-year period, the Board shall require the contractor to file a bond or establish a cash deposit in an amount fixed by the Board. The contractor shall maintain the bond or cash deposit for the period required by the Board.

7. If a contractor who performs work concerning a residential pool or spa or work concerning a residential photovoltaic system used to produce electricity:

(a) Is determined by the Board to have violated one or more of the provisions of NRS 624.301 to 624.305, inclusive;
(b) Enters into a contract [on or after July 1, 2001,] that is later found to be void and unenforceable against the owner pursuant to subsection 5 of NRS 624.940 or pursuant to any regulation adopted by the Board with respect to contracts for work concerning a residential pool or spa;
(c) Enters into a contract on or after October 1, 2021, that is later found to be void and unenforceable against the owner pursuant to subsection 6 of section 9 of this act or pursuant to any regulation adopted by the Board with respect to contracts for work concerning a residential photovoltaic system used to produce electricity; or
(d) Has five valid complaints filed against him or her with the Board within any 15-day period,

the Board may require the contractor to comply with the provisions of subsection 8.

8. If the Board requires a contractor described in subsection 7 to comply with the provisions of this subsection, the contractor shall, before commencing work concerning a residential pool or spa or work concerning a residential photovoltaic system used to produce electricity, obtain:

(a) Except as otherwise provided in this subsection, a performance bond in an amount equal to not less than 50 percent of the amount of the contract, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions set forth in the contract. The performance bond must be solely for the protection of the owner of the property to be improved.
(b) Except as otherwise provided in this subsection, a payment bond in an amount equal to not less than 50 percent of the amount of the contract. The payment bond must be solely for the protection of persons supplying labor or materials to the contractor, or to any of his or her subcontractors, in carrying out the provisions of the contract.

A bond required pursuant to this subsection must be provided by a person whose long-term debt obligations are rated “A” or better by a nationally recognized rating agency. The contractor shall maintain the bond for the period required by the Board. The contractor shall furnish to the building department of the city or county, as applicable, in which the work will be carried out, a copy of any bond. In lieu of a performance or payment bond, the contractor may obtain an equivalent form of security approved by the Board.

9. As used in this section, “substantiated claim for wages” has the meaning ascribed to it in NRS 607.165.

Sec. 16. NRS 624.3016 is hereby amended to read as follows:

624.3016 The following acts or omissions, among others, constitute cause for disciplinary action under NRS 624.300:

1. Any fraudulent or deceitful act committed in the capacity of a contractor, including, without limitation, misrepresentation or the omission of a material fact.

2. A conviction of a violation of NRS 624.730, or a conviction in this State or any other jurisdiction of a felony relating to the practice of a contractor or a crime involving moral turpitude.

3. Knowingly making a false statement in or relating to the recording of a notice of lien pursuant to the provisions of NRS 108.226.

4. Failure to give a notice required by NRS 108.227, 108.245, 108.246 or 624.520.

5. Failure to comply with NRS 624.920, 624.930, 624.935 or 624.940 or any regulations of the Board governing contracts for work concerning residential pools and spas.

6. Failure to comply with NRS 624.600.

7. Misrepresentation or the omission of a material fact, or the commission of any other fraudulent or deceitful act, to obtain a license.

8. Failure to pay an assessment required pursuant to NRS 624.470.

9. Failure to file a certified payroll report that is required for a contract for a public work.

10. Knowingly submitting false information in an application for qualification or a certified payroll report that is required for a contract for a public work.

11. Failure to notify the Board of a conviction or entry of a plea of guilty, guilty but mentally ill or nolo contendere pursuant to NRS 624.266.

12. Failure to provide a builder’s warranty as required by NRS 624.602 or to respond reasonably to a claim made under a builder’s warranty.
Failure to comply with sections 6 to 9, inclusive, of this act or any regulations of the Board governing contracts for work concerning residential photovoltaic systems used to produce electricity.

Sec. 17. NRS 627.175 is hereby amended to read as follows:

NRS 627.175 1. Except as otherwise provided in subsection 2, the following shall not be a construction control or subject to the provisions of this chapter:

(a) A contractor licensed under the laws of the State of Nevada, paying a subcontractor, supplier of material, laborer or other person for bills incurred in the construction, repair, alteration or improvement of any premises.

(b) A subcontractor licensed to do business under the laws of the State of Nevada, paying a subcontractor, supplier of material, laborer or other person for bills incurred in the construction, repair, alteration or improvement of any premises.

(c) An owner-contractor paying a contractor, subcontractor, supplier of material, laborer or other person for bills incurred in the construction, repair, alteration or improvement of any premises.

(d) A lender of construction loan money, provided that the lender disburses the money directly to a contractor authorized by the borrower to do the work, or disburses the money directly to the owner of the premises.

(e) A lender of construction loan money, to an owner of a residential property or to an owner of not more than four units if the loan is made to repair or improve such property and the construction costs are $10,000 or less, or 35 percent of the appraised value of the improvements and repairs, whichever is greater.

2. The provisions of this chapter apply to a contractor who is required to obtain the services of a construction control pursuant to the provisions of NRS 624.264, 624.323 or 624.960 or section 13 of this act.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.
(To be entered at a later date.)

Amendment adopted.

Bill read third time.

Remarks by Senator Brooks.
(To be entered at a later date.)

Roll call on Senate Bill No. 303:

YEAS—21.

NAYS—None.

Senate Bill No. 303 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 320.

Bill read third time.
The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 406.

SUMMARY—Enacts various provisions relating to food delivery service platforms. (BDR 52-591)

AN ACT relating to trade practices; prohibiting a food delivery service platform provider from engaging in certain activities; requiring a food delivery service platform provider to remove a food dispensing establishment from the food delivery service platform of the provider upon request; requiring a food delivery service platform provider to make certain disclosures concerning online food orders; prohibiting a food delivery service platform provider from charging a food dispensing establishment any fees over a certain amount during [this] any period in which [this] a Declaration of Emergency for COVID-19 issued by the Governor remains in effect; establishing certain practices as deceptive trade practices; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

This bill enacts various provisions relating to a food delivery service platform, which is defined in section 4 of this bill to mean an Internet website, online service or mobile application which allows users to purchase food from multiple food dispensing establishments and arrange for the same-day delivery or same-day pickup of such food. Section 5 of this bill defines “food delivery service platform provider” as a person who operates a food delivery service platform.

Section 12 of this bill prohibits a food delivery service platform provider from facilitating an online food order involving a food dispensing establishment unless the provider has entered into [blank] a written agreement with the food dispensing establishment that expressly authorizes the provider to engage in such activities. Section 13 of this bill requires a food delivery service platform provider to remove a food dispensing establishment from the food delivery service platform of the provider [upon] within 48 hours after the receipt of a written request from the food dispensing establishment. Section 13 provides that a food delivery service platform provider that violates that requirement is subject to a civil penalty of $500 per day of the violation.

Section 14 of this bill prohibits a food delivery service platform provider from using the likeness, registered trademark or intellectual property of a food dispensing establishment without first obtaining the written consent of the food dispensing establishment. Section 14 provides that a food delivery service platform provider that violates that prohibition is subject to a civil penalty of $500 per day of the violation. Section 15 of this bill authorizes a food dispensing establishment whose likeness, registered trademark or intellectual property was used by a food delivery service platform provider in violation of section 14 to bring an action against the provider.
Section 16 of this bill requires a food delivery service platform provider to disclose certain information to a user of the platform who engages in an online food order. Among the information required to be disclosed by section 16 is a statement that indicates a commission is to be paid associated with the online food order. Section 3 of this bill defines “commission,” in general, to mean any fee charged by a food delivery service platform provider to a food dispensing establishment for the use of the services of the provider in effectuating online food orders. Section 17 of this bill sets forth the procedures by which a food delivery service platform provider may request an alternative manner in which all required information may be disclosed.

On March 12, 2020, Governor Steve Sisolak issued a Declaration of Emergency due to the outbreak of the disease identified by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services as COVID-19. (Declaration of Emergency for COVID-19 (March 12, 2020)) Section 19 of this bill prohibits, for any period during which a Declaration of Emergency for COVID-19 declared by the Governor of this State remains in effect, a food delivery service platform provider from charging a food dispensing establishment any commission for an online food order that exceeds a certain amount.

Existing law defines various activities involving businesses and occupations that constitute deceptive trade practices. (NRS 598.0915-598.0925) If a person knowingly engages in a deceptive trade practice, the person may be subject to restraint by injunction and the imposition of civil and criminal penalties. (NRS 598.0979, 598.0985, 598.0999) Sections 18 and 19 of this bill provide that a violation of the provisions of section 16, 17 or 19 of this bill constitutes a deceptive trade practice.

Sections 3-11 of this bill define words and terms for the purposes of this bill.

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 18, inclusive, of this act.

Sec. 2. As used in sections 2 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 11, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 3. 1. “Commission” means any fee or other payment of money that is charged by a food delivery service platform provider to a food dispensing establishment for the use of the services of the food delivery service platform provider in effectuating online food orders.

2. The term includes, without limitation, any annual fee charged to a food dispensing establishment for the use of the services described in subsection 1.

3. The term does include any fee that is charged by a food delivery service platform provider for services provided as a general or indirect cost of doing
business, including, without limitation, fees for the processing of credit cards or for advertising in a restaurant directory.

Sec. 4. “Food delivery service platform” means an Internet website, online service or mobile application which allows users to purchase food from multiple food dispensing establishments and arrange for the same-day delivery or same-day pickup of such food.

Sec. 5. “Food delivery service platform provider” means a person who operates a food delivery service platform.

Sec. 6. 1. “Food dispensing establishment” means a food establishment that prepares and serves food intended for immediate consumption. The term includes, without limitation, a restaurant. The term does not include a convenience store or a grocery store.

2. As used in this section:
   (a) “Convenience store” has the meaning ascribed to it in NRS 597.225.
   (b) “Food establishment” has the meaning ascribed to it in NRS 446.020.
   (c) “Grocery store” has the meaning ascribed to it in NRS 597.225.

Sec. 7. “Food purchase price” means the portion of the total online food order price that is attributable to the amount charged by the food dispensing establishment for the food.

Sec. 8. “Likeness” means any identifiable symbol attributed and easily identified as belonging to a specific food dispensing establishment.

Sec. 9. “Online food order” means a transaction in which a user, through a food delivery service platform, purchases food from a food dispensing establishment and arranges for the same-day delivery or same-day pickup of such food.

Sec. 10. “Total online food order price” means the total amount paid or to be paid by a user as a result of an online food order.

Sec. 11. “User” means a person who uses a food delivery service platform to engage in an online food order.

Sec. 12. A food delivery service platform provider shall not facilitate an online food order involving a food dispensing establishment, including, without limitation, arranging for the same-day delivery or same-day pickup of food prepared by a food dispensing establishment, unless the food delivery service platform provider has entered into a written agreement with the food dispensing establishment that expressly authorizes the food delivery service platform provider to engage in such activities.

Sec. 13. 1. A food dispensing establishment may, at any time, submit a written request to a food delivery service platform provider directing the provider to remove the food dispensing establishment from the food delivery service platform. If the food delivery service platform has appointed a registered agent located in this State, the request must be submitted to the registered agent.

2. A food delivery service platform provider that receives a request submitted pursuant to subsection 1 shall confirm receipt of the request and
remove the food dispensing establishment from the food delivery service platform within 48 hours after receipt of the request.

3. A food delivery service platform provider who violates the provisions of subsection 2 is subject to a civil penalty of $500 per day of the violation, and each day’s continuance of the violation constitutes a separate and distinct violation.

Sec. 14. 1. A food delivery service platform provider shall not use the likeness, registered trademark or intellectual property of a food dispensing establishment unless the food delivery service platform provider first obtains the written consent of the food dispensing establishment.

2. A food delivery service platform provider who violates the provisions of subsection 1 is subject to a civil penalty of $500 per day of the violation, and each day’s continuance of the violation constitutes a separate and distinct violation.

Sec. 15. 1. A food dispensing establishment whose likeness, registered trademark or intellectual property was used by a food delivery service platform provider in violation of section 14 of this act may bring an action against the food delivery service platform provider in any court of competent jurisdiction and may recover the sum of $5,000 or the amount of actual damages sustained, whichever is greater.

2. If the food dispensing establishment prevails in the action, the court may award such punitive damages and equitable relief as the court determines to be proper.

Sec. 16. 1. Before an online food order is consummated with a user, the food delivery service platform provider must disclose to the user the following information in plain language and in a conspicuous manner:

(a) The total online food order price;
(b) Each portion of the total online food order price that is attributable to:
   (1) The food purchase price;
   (2) Any sales tax or other tax;
   (3) Any delivery fee or service fee charged to the user by the food delivery service platform provider or food dispensing establishment; and
   (4) Any gratuity to be paid to the person who delivers the food; and
(c) Any commission associated with the online food order in accordance with section 17 of this act; and
   (d) If a commission is disclosed pursuant to paragraph (c), a statement that indicates that the commission is to be paid by the food dispensing establishment in connection with the online food order. The statement must include a disclosure of the average commission expressed as the highest possible percentage of the aggregate food purchase price on deliveries by the food delivery service platform provider for the food dispensing establishment in this State.

2. If, after the consummation of an online food order, the user is provided with a receipt for the online food order, the information required to be
disclosed pursuant to paragraphs (a) and (b) of subsection 1 must be set forth on the receipt in plain language and in a conspicuous manner.

Sec. 17. 1. Except as otherwise provided in subsection 4, a commission disclosed pursuant to section 16 of this act must be presented as a single aggregate number that is determined and expressed in accordance with subsection 2 or 3, as applicable.

2. If it is feasible for a food delivery service platform provider to determine the total of all commissions actually attributable to the particular online food order for which the food delivery service platform provider is making the disclosure, the single aggregate number described in subsection 1 must:
   (a) Represent the total of all commissions charged to the food dispensing establishment that are actually attributable to the particular online food order for which the provider is making the disclosure; and
   (b) Be expressed in a dollar amount or as a percentage of the total online food order price or any portion thereof.

3. If it is not feasible for a food delivery service platform provider to determine the total of all commissions actually attributable to the particular online food order for which the food delivery service platform provider is making the disclosure, the single aggregate number described in subsection 1 must:
   (a) Represent a good-faith estimate of the total of all commissions attributable to the particular online food order for which the provider is making the disclosure; and
   (b) Be expressed in a dollar amount, a percentage of the total online order price or any portion thereof or a range of percentages based on previous commissions charged to the food dispensing establishment.

4. If a food delivery service platform provider determines that it is not feasible to disclose the information required pursuant to section 16 of this act in the manner provided in that section, the provider may submit a request to the Commissioner of Consumer Affairs to disclose the information in an alternative manner. Such a request must include, without limitation, a proposal for an alternative manner in which to disclose the information required pursuant to section 16 of this act and any other information the Commissioner deems necessary. If the Commissioner approves the request, the food delivery service platform provider may disclose the information required pursuant to section 16 of this act in the manner set forth in the approved request.

Sec. 18. A person who knowingly violates section 16 or 17 of this act is deemed to have committed a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Sec. 19. 1. During any period in which a Declaration of Emergency issued by the Governor of the State of Nevada due to the outbreak of the disease identified by the Centers for Disease Control and Prevention of the United States
Department of Health and Human Services as COVID-19 remains in effect, a food delivery service platform provider shall not charge a food dispensing establishment [any fee or combination of fees] a commission for an online food order that exceeds 20 percent of the food purchase price of the online food order, plus a credit card processing fee. A food dispensing establishment may agree in writing to pay a food delivery service platform provider a commission that exceeds the limit established in this subsection to obtain optional products or services, including, without limitation, advertising, marketing or access to customer subscription programs.

2. A food delivery service platform provider shall not reduce the compensation rates paid to any person who delivers food for the provider or garnish the gratuities of such a person as a result of this section.

3. A person who knowingly violates this section is deemed to have committed a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

4. As used in this section:
   (a) “Food delivery service platform provider” has the meaning ascribed to it in section 5 of this act.
   (b) “Food dispensing establishment” has the meaning ascribed to it in section 6 of this act.
   (c) “Food purchase price” has the meaning ascribed to it in section 7 of this act.
   (d) “Online food order” has the meaning ascribed to it in section 9 of this act.

Senator Spearman moved the adoption of the amendment.

Remarks by Senator Spearman.
(To be entered at a later date.)

Amendment adopted.
Bill read third time.
Remarks by Senator Neal.
(To be entered at a later date.)

Roll call on Senate Bill No. 320:
YEAS—21.
NAYS—None.

Senate Bill No. 320 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 329.
Bill read third time.
The following amendment was proposed by the Committee on Health and Human Services:
Amendment No. 447.
SUMMARY—Revises provisions relating to competition in health care markets. (BDR 40-998)

AN ACT relating to health care; requiring a hospital or physician group practice to notify the Department of Health and Human Services of certain transactions; prohibiting [an insurer, a physician or a health care facility] a provider of health care from entering into a contract that contains certain provisions; authorizing the use of certain fees to investigate such prohibited contracting practices; authorizing [the imposition of certain administrative sanctions] certain civil actions; authorizing the imposition of a civil penalty; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that the Department of Health and Human Services is the agency of this State for health planning and development. (NRS 439A.081) Section 1 of this bill requires a hospital [or physician group practice] to notify the Department of any merger, acquisition or similar transaction involving the hospital [or physician group practice]. Section 1 additionally requires a physician group practice to report certain similar transactions involving the physician group practice if: (1) the physician group practices that are parties to the transaction represent at least 20 percent of the physicians who practice any specialty in a primary service area; and (2) the physician group practice represents the largest number of physicians of any physician group practice that is a party to the transaction. Section 1 requires the Department to post the information contained in those notices on the Internet and publish an annual report based on that information.

Existing law prohibits certain unfair trade practices [in the business of insurance]. (NRS 686A.010-686A.280) Sections 2, 10, 11 and 12 of this bill prohibit a health facility, a physician or an insurer from entering into a contract that contains certain provisions that restrain the ability of an insurer to contract with other providers of health care, including health facilities, that are not parties to the contract or the ability of a provider of health care to contract with insurers that are not a party to the contract. Sections 3 and 4 of this bill make conforming changes to indicate the placement of section 2 in the Nevada Revised Statutes. Sections 5-9, 12, 14 and 15 of this bill provide for the enforcement of sections 2 and 13, including through various administrative sanctions. Sections 16-20 of this bill provide that certain entities that provide health coverage are subject to the provisions of section 13. (NRS 598A.060) Section 20.9 of this bill prohibits a provider of health care, including a facility that provides health care, from entering into, offering to enter into or soliciting a contract that: (1) prohibits a third party insurer from steering covered persons to certain providers of health care or placing providers of health care in tiers; or (2) that places certain other restrictions on the third party insurer. The Attorney General or a person injured by a violation of section 20.9 would be authorized to bring a civil action against a provider of health care who commits such a violation. (NRS 598A.160, 598A.180-598A.210) Additionally, a
provider of health care or third party insurer who commits such a violation would be subject to a civil penalty and guilty of a category D felony. (NRS 598A.170, 598A.280)

Existing law requires certain business entities that have had a total of five or more investigations commenced against the entity for unfair trade practices which resulted in the imposition of certain penalties or other requirements during a 5-year period to submit to the Secretary of State: (1) a statement concerning each such investigation; and (2) a fee. Existing law requires the Attorney General to use that fee for the purposes of investigating unfair trade practices. (NRS 78.153, 80.115, 86.264, 86.5462, 87A.295, 87A.565, 88.397, 88.5915) Sections 20.1-20.8 of this bill authorize the Attorney General to use those fees to investigate contracting practices prohibited by section 20.9.

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

Section 1. Chapter 439A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A hospital [or physician group practice] shall notify the Department of any merger, acquisition or joint venture with any entity, including, without limitation, a physician group practice, to which the hospital [or physician group practice] is a party or any contract for the management of the hospital [or physician group practice] not later than 60 days after the finalization of the [merger or acquisition, commencement of the joint venture] transaction or execution of the contract [ ,] for management, as applicable. [The notice]

2. A physician group practice shall notify the Department of a transaction described in subsection 3 to which the physician group practice is a party or any contract for the management of a physician group practice not later than 60 days after the finalization of the transaction or execution of the contract for management, as applicable, if:

(a) The physician group practices that are parties to the transaction or contract for management represent at least 20 percent of the physicians who practice any specialty in a primary service area; and

(b) The physician group practice represents the largest number of physicians of any physician group practice that is a party to the transaction or contract for management.

3. Notice must be provided pursuant to subsection 1 or 2 for any:

(a) Merger of, consolidation of or other affiliation between physician group practices;

(b) The acquisition of all or substantially all of the properties and assets of a physician group practice;

(c) The acquisition of all or substantially all of the capital stock, membership interests or other equity interests of a physician group practice;

(d) The employment of all or substantially all of the physicians in a physician group practice; or

(e) The acquisition of an insolvent physician group practice.
4. Notice pursuant to subsection 1 or 2 must be provided in the form prescribed by the Department and must include, without limitation:
(a) The name of each party to the transaction, including, without limitation, any person who currently holds at least 5 percent ownership of any party to the transaction or plans to hold at least 5 percent ownership of the newly formed entity, or contract for management, as applicable;
(b) A description of the nature of the proposed relationship of the parties to the transaction or contract for management, as applicable;
(c) The names and any specialties of each physician who is a party or employed by or affiliated with a physician group practice that is a party to the transaction or contract for management, as applicable;
(d) The name and address of each business entity that will provide health services after the transaction or contract for management, as applicable;
(e) A description of the health services to be provided at each location of a business entity described in paragraph (d); and
(f) The primary service area to be served by each location of a business entity described in paragraph (d).

5. The Department shall:
(a) Post the information contained in the notices provided pursuant to subsections 1 and 2 on an Internet website maintained by the Department; and
(b) Annually prepare a report regarding market transactions and concentration in health care based on the information in the notices and post the report on an Internet website maintained by the Department.

6. As used in this section:
(a) “Physician group practice” means any business entity organized for the purpose of the practice of medicine or osteopathic medicine by more than one physician.
(b) “Primary service area” means an area comprising the smallest number of zip codes from which the hospital or physician group practice draws at least 75 percent of patients.

Sec. 2. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:
1. A medical facility, facility for the dependent, or facility which is otherwise required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed shall not enter into a contract with an insurer that contains a provision prohibited by section 13 of this act.

2. As used in this section, “insurer” has the meaning ascribed to it in NRS 679A.100.

Sec. 3. NRS 449.029 is hereby amended to read as follows:
449.029 As used in NRS 449.029 to 449.240, inclusive, and section 2 of this act, unless the context otherwise requires, “medical facility” has the meaning ascribed to it in NRS 449.0151 and includes a program of hospice care described in NRS 449.106.4. (Deleted by amendment.)
Sec. 4. NRS 449.0301 is hereby amended to read as follows:

NRS 449.0301. The provisions of NRS 449.029 to 449.2428, inclusive, and section 2 of this act do not apply to:

1. Any facility conducted by and for the adherents of any church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing in the practice of the religion of the church or denomination, except that such a facility shall comply with all regulations relative to sanitation and safety applicable to other facilities of a similar category.

2. Foster homes as defined in NRS 424.014.

3. Any medical facility, facility for the dependent or facility which is otherwise required by the regulations adopted by the Board pursuant to NRS 449.0302 to be licensed that is operated and maintained by the United States Government or an agency thereof. (Deleted by amendment.)

Sec. 5. NRS 449.089 is hereby amended to read as follows:

NRS 449.089. 1. Each license issued pursuant to NRS 449.029 to 449.2428, inclusive, and section 2 of this act expires on December 31 following its issuance and is renewable for 1 year upon reapplication and payment of all fees required pursuant to NRS 449.050 unless the Division finds, after an investigation, that the facility has not:

(a) Satisfactorily complied with the provisions of NRS 449.029 to 449.2428, inclusive, and section 2 of this act or the standards and regulations adopted by the Board;

(b) Obtained the approval of the Director of the Department of Health and Human Services before undertaking a project, if such approval is required by NRS 420A.100, or

(c) Conformed to all applicable local zoning regulations.

2. Each reapplication for an agency to provide personal care services in the home, an agency to provide nursing in the home, a community health worker pool, a facility for intermediate care, a facility for skilled nursing, a provider of community-based living arrangement services, a hospital described in 42 U.S.C. § 1395ww(d)(1)(B)(iv), a psychiatric hospital that provides inpatient services to children, a psychiatric residential treatment facility, a residential facility for groups, a program of hospice care, a home for individual residential care, a facility for the care of adults during the day, a facility for hospice care, a nursing pool, a peer support recovery organization, the distinct part of a hospital which meets the requirements of a skilled nursing facility or nursing facility pursuant to 42 C.F.R. § 483.5, a hospital that provides swing-bed services as described in 42 C.F.R. § 482.58 or, if residential services are provided to children, a medical facility or facility for the treatment of alcohol or other substance use disorders must include, without limitation, a statement that the facility, hospital, agency, program, pool, organization or home is in compliance with the provisions of NRS 449.115 to 449.125, inclusive, and 449.174.
3. Each reapplication for an agency to provide personal care services in the home, a community health worker pool, a facility for intermediate care, a facility for skilled nursing, a facility for the care of adults during the day, a peer support recovery organization, a residential facility for groups or a home for individual residential care must include, without limitation, a statement that the holder of the license to operate, and the administrator or other person in charge and employees of the facility, agency, pool, organization or home are in compliance with the provisions of NRS 449.093. [Deleted by amendment.]

Sec. 6. [NRS 449.160 is hereby amended to read as follows:

449.160  1. The Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.029 to 449.245, inclusive, and section 2 of this act upon any of the following grounds:
   (a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.029 to 449.245, inclusive, and section 2 of this act or of any other law of this State or of the standards, rules and regulations adopted thereunder.
   (b) Aiding, abetting or permitting the commission of any illegal act.
   (c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.
   (d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.
   (e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to NRS 449.001 to 449.145, inclusive, and section 2 of this act and 449.125 to 449.521, inclusive, and chapter 449A of NRS if such approval is required.
   (f) Failure to comply with the provisions of NRS 449.2486.
   (g) Violation of the provisions of NRS 458.112.

2. In addition to the provisions of subsection 1, the Division may revoke a license to operate a facility for the dependent if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:
   (a) Is convicted of violating any of the provisions of NRS 202.470;
   (b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.160, 244.3603 or 268.4124; or
   (c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Division shall maintain a log of any complaints that it receives relating to activities for which the Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The Division shall provide to a facility for the care of adults during the day:
— (a) A summary of a complaint against the facility if the investigation of the complaint by the Division either substantiates the complaint or is inconclusive; 
— (b) A report of any investigation conducted with respect to the complaint; and 
— (c) A report of any disciplinary action taken against the facility.

The facility shall make the information available to the public pursuant to NRS 449.2486.

4. On or before February 1 of each odd-numbered year, the Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:
— (a) Any complaints included in the log maintained by the Division pursuant to subsection 3; and 
— (b) Any disciplinary actions taken by the Division pursuant to subsection 2. (Deleted by amendment.)

Sec. 7. [NRS 449.163 is hereby amended to read as follows:

449.163 1. In addition to the payment of the amount required by NRS 449.0308, if a medical facility, facility for the dependent or facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.029 to 449.2428, inclusive, and section 2 of this act or any condition, standard or regulation adopted by the Board, the Division, in accordance with the regulations adopted pursuant to NRS 449.165, may:
— (a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;
— (b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;
— (c) If the license of the facility limits the occupancy of the facility and the facility has exceeded the approved occupancy, require the facility, at its own expense, to move patients to another facility that is licensed;
— (d) Impose an administrative penalty of not more than $5,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and
— (e) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:
— (1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or
— (2) Improvements are made to correct the violation.

2. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (d) of subsection 1, the Division may:
— (a) Suspend the license of the facility until the administrative penalty is paid; and
(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

3. The Division may require any facility that violates any provision of NRS 439B.410 or 449.029 to 449.245, inclusive, and section 2 of this act or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

4. Any money collected as administrative penalties pursuant to paragraph (d) of subsection 1 must be accounted for separately and used to administer and carry out the provisions of NRS 449.001 to 449.430, inclusive, and section 2 of this act, 449.435 to 449.531, inclusive, and chapter 449A of NRS to protect the health, safety, well being and property of the patients and residents of facilities in accordance with applicable state and federal standards or for any other purpose authorized by the Legislature. (Deleted by amendment.)

Sec. 8. [NRS 449.220 is hereby amended to read as follows:]

449.220 1. The Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.029 to 449.245, inclusive [:], and section 2 of this act:

(a) Without first obtaining a license therefor; or

(b) After his or her license has been revoked or suspended by the Division.

2. It is sufficient in such action to allege that the defendant did, on a certain date and in a certain place, operate and maintain such a facility without a license. (Deleted by amendment.)

Sec. 9. [NRS 449.240 is hereby amended to read as follows:]

449.240 The district attorney of the county in which the facility is located shall, upon application by the Division, institute and conduct the prosecution of any action for violation of any provisions of NRS 449.029 to 449.245, inclusive [:], and section 2 of this act. (Deleted by amendment.)

Sec. 10. [NRS 630.305 is hereby amended to read as follows:]

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

(a) Directly or indirectly receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation which is intended or tends to influence the physician's objective evaluation or treatment of a patient.

(b) Dividing a fee between licensees except where the patient is informed of the division of fees and the division of fees is made in proportion to the services personally performed and the responsibility assumed by each licensee.

(c) Referring, in violation of NRS 439B.425, a patient to a health facility, medical laboratory or commercial establishment in which the licensee has a financial interest.

(d) Charging for visits to the physician's office which did not occur or for services which were not rendered or documented in the records of the patient.
(e) Aiding, assisting, employing or advising, directly or indirectly, any unlicensed person to engage in the practice of medicine contrary to the provisions of this chapter or the regulations of the Board.

(f) Delegating responsibility for the care of a patient to a person if the licensee knows, or has reason to know, that the person is not qualified to undertake that responsibility.

(g) Failing to disclose to a patient any financial or other conflict of interest.

(h) Failing to initiate the performance of community service within 1 year after the date the community service is required to begin, if the community service was imposed as a requirement of the licensee's receiving loans or scholarships from the Federal Government or a state or local government for the licensee's medical education.

(i) Entering into a contract that contains a provision prohibited by section 13 of this act.

Nothing in this section prohibits a physician from forming an association or other business relationship with an optometrist pursuant to the provisions of NRS 636.373. (Deleted by amendment.)

Sec. 11. [NRS 633.511 is hereby amended to read as follows:

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

(a) Unprofessional conduct.

(b) Conviction of:

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

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

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

(4) Murder, voluntary manslaughter or mayhem;

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

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

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

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

(9) Any offense involving moral turpitude.

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

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

(e) Professional incompetence.

(f) Failure to comply with the requirements of NRS 623.527.

(g) Failure to comply with the requirements of subsection 3 of NRS 633.471.
(h) Failure to comply with the provisions of NRS 633.694.
(i) Operation of a medical facility, as defined in NRS 449.0151, at any time during which:
   (1) The license of the facility is suspended or revoked; or
   (2) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.
This paragraph applies to an owner or other principal responsible for the operation of the facility.
(j) Failure to comply with the provisions of subsection 2 of NRS 633.322.
(k) Signing a blank prescription form.
(l) Knowingly or willfully procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:
   (1) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;
   (2) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328;
   (3) Is cannabis being used for medical purposes in accordance with chapter 678C of NRS; or
   (4) Is an investigational drug or biological product prescribed to a patient pursuant to NRS 620.3735 or 633.6945.
(m) Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.
(n) Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.
(o) In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law, knowingly or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.
(p) Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board within 30 days after the date the licensee knows or has reason to know of the violation.
(q) Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.
(r) Engaging in any act that is unsafe in accordance with regulations adopted by the Board.
(s) Failure to comply with the provisions of NRS 629.515.
(t) Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.
(u) Failure to obtain any training required by the Board pursuant to NRS 622.472.
(v) Failure to comply with the provisions of NRS 622.6055.
(w) Failure to comply with the provisions of NRS 453.163, 453.164, 453.226, 639.23507, 639.23535 and 639.2391 to 639.23916, inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto.
x (x) Failure to comply with the provisions of NRS 454.217 or 620.086.
y (y) Entering into a contract that contains a provision prohibited by section 13 of this act.

2. As used in this section, "investigational drug or biological product" has the meaning ascribed to it in NRS 454.351. [Deleted by amendment.]

Sec. 12. [NRS 654.190 is hereby amended to read as follows:]
654.190 1. The Board may, after notice and an opportunity for a hearing as required by law, impose an administrative fine of not more than $10,000 for each violation, recover reasonable investigative fees and costs incurred from, suspend, revoke, deny the issuance or renewal of or place conditions on the license of, and place on probation or impose any combination of the foregoing on any licensee who:
(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.
(b) Has obtained his or her license by the use of fraud or deceit.
(c) Violates any of the provisions of this chapter.
(d) Aids or abets any person in the violation of any of the provisions of NRS 449.029 to 449.2428, inclusive, and section 2 of this act, as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.
(e) Violates any regulation of the Board prescribing additional standards of conduct for licensees, including, without limitation, a code of ethics.
(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the licensee and the patient or resident for the financial or other gain of the licensee.

2. If a licensee requests a hearing pursuant to subsection 1, the Board shall give the licensee written notice of the hearing pursuant to NRS 233B.121 and 241.034. A licensee may waive, in writing, his or her right to attend the hearing.

3. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that set forth a procedure pursuant to which the Chair of the Board may issue
subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.

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

5. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license. (Deleted by amendment.)

Sec. 13. [Chapter 686A of NRS is hereby amended by adding thereto a new section to read as follows:

1. An insurer shall not enter into a contract with a provider of health care that:

(a) Restricts the ability of the insurer to direct a covered person to a provider of health care that is not a party to the contract or requires the insurer to offer incentives to encourage a covered person to utilize specific providers of health care;

(b) Prohibits or authorizes the insurer to prohibit the provider of health care from entering into a contract to provide health care services at a lower price than the price specified in the contract with the insurer;

(c) Requires or authorizes the insurer to require the provider of health care to accept a lower rate of reimbursement from the insurer if the provider of health care enters into a contract described in paragraph (b); or

(d) Requires or authorizes the insurer to require termination or renegotiation of the contract with the provider of health care if the provider of health care enters into a contract described in paragraph (b);

(e) Requires the provider of health care to disclose to the insurer the rates of reimbursement provided to the provider of health care pursuant to a contract with another insurer;

(f) Requires the insurer to contract with all providers of health care affiliated with a business entity as a condition of including any provider of health care affiliated with that business entity in the network plan of the insurer;

(g) Prohibits the provider of health care from contracting with an insurer that is not a party to the contract or penalizes the provider of health care for entering into such a contract;

(h) Prohibits the insurer from contracting with a provider of health care that is not a party to the contract or penalizes the insurer for entering into such a contract;

(i) Includes a clause equivalent to those described in paragraphs (a) to (h), inclusive.

2. As used in this section:}
(a) “Covered person” means a policyholder, subscriber, enrollee or other person participating in a network plan.

(b) “Health care plan” means a policy, contract, certificate or agreement offered or issued by an insurer to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services.

(c) “Network plan” means a health care plan offered or issued by an insurer under which the financing and delivery of health care services, including, without limitation, items and services paid for as health care services, are provided, in whole or in part, through a defined set of providers of health care under contract with the insurer. The term does not include an arrangement for the financing of premiums.

(d) “Provider of health care” means:

(1) A physician or other health care practitioner who is licensed or otherwise authorized in this State to furnish any health care service; or

(2) An institution providing health care services or other setting in which health care services are provided, including, without limitation, a hospital, surgical center for ambulatory patients, facility for skilled nursing, residential facility for groups, laboratory and any other such licensed facility.

Sec. 14. [NRS 686A.160 is hereby amended to read as follows:

686A.160  If the Commissioner has cause to believe that any person has been engaged or is engaging, in this state, in any unfair method of competition or any unfair or deceptive act or practice prohibited by NRS 686A.010 to 686A.310, inclusive, and section 13 of this act, and section 13 of this act, the Commissioner may issue and serve upon such person a statement of the charges and a notice of the hearing to be held thereon. The statement of charges and notice of hearing shall comply with the requirements of NRS 679B.320 and shall be served upon such person directly or by certified or registered mail, return receipt requested.] (Deleted by amendment.)

Sec. 15. [NRS 686A.183 is hereby amended to read as follows:

686A.183  1. After the hearing provided for in NRS 686A.160, the Commissioner shall issue an order on hearing pursuant to NRS 679B.360. If the Commissioner determines that the person charged has engaged in an unfair method of competition or an unfair or deceptive act or practice in violation of NRS 686A.010 to 686A.310, inclusive, and section 13 of this act, the Commissioner shall order the person to cease and desist from engaging in that method of competition, act or practice, and may order one or both of the following:

(a) If the person knew or reasonably should have known that he or she was in violation of NRS 686A.010 to 686A.310, inclusive, and section 13 of this act, payment of an administrative fine of not more than $5,000 for each act or violation, except that as to licensed agents, brokers, solicitors and adjusters, the administrative fine must not exceed $500 for each act or violation.
(b) Suspension or revocation of the person's license if the person knew or reasonably should have known that he or she was in violation of NRS 686A.010 to 686A.310, inclusive [•], and section 13 of this act.

2. Until the expiration of the time allowed for taking an appeal, pursuant to NRS 679B.270, if no petition for review has been filed within that time, or, if a petition for review has been filed within that time, until the official record in the proceeding has been filed with the court, the Commissioner may, at any time, upon such notice and in such manner as the Commissioner deems proper, modify or set aside, in whole or in part, any order issued by him or her under this section.

3. After the expiration of the time allowed for taking an appeal, if no petition for review has been filed, the Commissioner may at any time, after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order issued by him or her under this section whenever in the opinion of the Commissioner conditions of fact or of law have so changed as to require such action or if the public interest so requires. [Deleted by amendment.]

Sec. 16. [NRS 686A.520 is hereby amended to read as follows:

686A.520 1. The provisions of NRS 683A.341, 683A.451, 683A.461 and 686A.010 to 686A.310, inclusive, and section 13 of this act, apply to companies.

2. For the purposes of subsection 1, unless the context requires that a section apply only to insurers, any reference in those sections to "insurer" must be replaced by a reference to "company." [Deleted by amendment.]

Sec. 17. [NRS 695B.320 is hereby amended to read as follows:

695B.320 1. Nonprofit hospital and medical or dental service corporations are subject to the provisions of this chapter, and to the provisions of chapters 679A and 679B of NRS, NRS 686A.010 to 686A.315, inclusive, and section 13 of this act, 687B.010 to 687B.040, inclusive, 687B.070 to 687B.140, inclusive, 687B.150, 687B.160, 687B.180, 687B.200 to 687B.255, inclusive, 687B.270, 687B.310 to 687B.380, inclusive, 687B.410, 687B.420, 687B.430, 687B.500 and chapters 692B, 692C, 693A and 696B of NRS, to the extent applicable and not in conflict with the express provisions of this chapter.

2. For the purposes of this section and the provisions set forth in subsection 1, a nonprofit hospital and medical or dental service corporation is included in the meaning of the term "insurer." [Deleted by amendment.]

Sec. 18. [NRS 695C.300 is hereby amended to read as follows:

695C.300 1. No health maintenance organization or representative thereof may cause or knowingly permit the use of advertising which is untrue or misleading, solicitation which is untrue or misleading or any form of evidence of coverage which is deceptive. For purposes of this chapter:

(a) A statement or item of information shall be deemed to be untrue if it does not conform to fact in any respect which is or may be significant to an enrollee of, or person considering enrollment in, a health care plan.
(b) A statement or item of information shall be deemed to be misleading, whether or not it may be literally untrue if, in the context in which such statement is made or such item of information is communicated, such statement or item of information may be reasonably understood by a reasonable person not possessing special knowledge regarding health care coverage, as indicating any benefit or advantage or the absence of any exclusion, limitation or disadvantage of possible significance to an enrollee of, or person considering enrollment in, a health care plan if such benefit or advantage or absence of limitation, exclusion or disadvantage does not in fact exist.

(c) An evidence of coverage shall be deemed to be deceptive if the evidence of coverage taken as a whole, and with consideration given to typography and format as well as language, shall be such as to cause a reasonable person not possessing special knowledge regarding health care plans and evidences of coverage thereby to expect benefits, services, charges or other advantages which the evidence of coverage does not provide or which the health care plan issuing such evidence of coverage does not regularly make available for enrollees covered under such evidence of coverage.

2. NRS 686A.010 to 686A.310, inclusive, and section 13 of this act shall be construed to apply to health maintenance organizations, health care plans and evidences of coverage except to the extent that the nature of health maintenance organizations, health care plans and evidences of coverage render the sections therein clearly inappropriate.

3. An enrollee may not be cancelled or not renewed except for the failure to pay the charge for such coverage or for cause as determined in the master contract.

4. No health maintenance organization, unless licensed as an insurer, may use in its name, contracts, or literature any of the words “insurance,” “casualty,” “surety,” “mutual” or any other words descriptive of the insurance, casualty or surety business or deceptively similar to the name or description of any insurance or surety corporation doing business in this State.

5. No person not certificated under this chapter shall use in its name, contracts or literature the phrase “health maintenance organization” or the initials “HMO.” (Deleted by amendment.)

Sec. 19. [NRS 695D.290 is hereby amended to read as follows:]

695D.290 The provisions of NRS 686A.010 to 686A.310, inclusive, and section 13 of this act relating to trade practices and frauds apply to organizations for dental care. (Deleted by amendment.)

Sec. 20. [NRS 695F.090 is hereby amended to read as follows:]

695F.090 1. Prepaid limited health service organizations are subject to the provisions of this chapter and to the following provisions, to the extent reasonably applicable.

(a) NRS 687B.310 to 687B.420, inclusive, concerning cancellation and nonrenewal of policies.
(b) NRS 687B.122 to 687B.128, inclusive, concerning readability of policies.

(c) The requirements of NRS 679B.152.

(d) The fees imposed pursuant to NRS 449.465.

(e) NRS 686A.010 to 686A.310, inclusive, and section 13 of this act concerning trade practices and frauds.

(f) The assessment imposed pursuant to NRS 679B.700.

(g) Chapter 683A of NRS.

(h) To the extent applicable, the provisions of NRS 689B.340 to 689B.580, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance.

(i) NRS 689A.035, 689A.0463, 689A.410, 689A.413 and 689A.415.

(j) NRS 680B.025 to 680B.039, inclusive, concerning premium tax, premium tax rate, annual report and estimated quarterly tax payments. For the purposes of this subsection, unless the context otherwise requires that a section apply only to insurers, any reference in those sections to “insurer” must be replaced by a reference to “prepaid limited health service organization.”

(k) Chapter 692C of NRS, concerning holding companies.

(l) NRS 680A.637, concerning health centers.

2. For the purposes of this section and the provisions set forth in subsection 1, a prepaid limited health service organization is included in the meaning of the term “insurer.” (Deleted by amendment.)

Sec. 20.1. NRS 78.153 is hereby amended to read as follows:

78.153 1. A corporation, including its parent and all subsidiaries:

(a) Holds 25 percent or more of the share of the market within this State for any product sold or distributed by the corporation within this State; and

(b) Has had, during the previous 5-year period, a total of five or more investigations commenced against the corporation, its parent or its subsidiaries in any jurisdiction within the United States, including all state and federal investigations:

(1) Which concern any alleged contract, combination or conspiracy in restraint of trade, as described in subsection 1 of NRS 598A.060, or which concern similar activities prohibited by a substantially similar law of another jurisdiction; and
(2) Which resulted in the corporation being fined or otherwise penalized or which resulted in the corporation being required to divest any holdings or being unable to acquire any holdings as a condition for the settlement, dismissal or resolution of those investigations.

3. A corporation that meets the criteria set forth in subsection 2 shall submit a statement which includes the following information with respect to each investigation:
   (a) The jurisdiction in which the investigation was commenced.
   (b) A summary of the nature of the investigation and the facts and circumstances surrounding the investigation.
   (c) If the investigation resulted in criminal or civil litigation, a copy of all pleadings filed in the investigation by any party to the litigation.
   (d) A summary of the outcome of the investigation, including specific information concerning whether any fine or penalty was imposed against the corporation and whether the corporation was required to divest any holdings or was unable to acquire any holdings as a condition for the settlement, dismissal or resolution of the investigation.

4. The fee collected pursuant to subsection 1 must be deposited in the Attorney General’s Administration Budget Account and used solely for the purpose of investigating any alleged contract, combination or conspiracy in restraint of trade, as described in subsection 1 of NRS 598A.060 and subsection 1 of section 20.9 of this act.

Sec. 20.2. NRS 80.115 is hereby amended to read as follows:

80.115 1. At the time of submitting any list required pursuant to NRS 80.110, a corporation that meets the criteria set forth in subsection 2 must submit:
   (a) The statement required pursuant to subsection 3, accompanied by a declaration under penalty of perjury attesting that the statement does not contain any material misrepresentation of fact; and
   (b) A fee of $100,000, to be distributed in the manner provided pursuant to subsection 4.

2. A corporation must submit a statement pursuant to this section if the corporation, including its parent and all subsidiaries:
   (a) Holds 25 percent or more of the share of the market within this State for any product sold or distributed by the corporation within this State; and
   (b) Has had, during the previous 5-year period, a total of five or more investigations commenced against the corporation, its parent or its subsidiaries in any jurisdiction within the United States, including all state and federal investigations:
      (1) Which concern any alleged contract, combination or conspiracy in restraint of trade, as described in subsection 1 of NRS 598A.060, or which concern similar activities prohibited by a substantially similar law of another jurisdiction; and
(2) Which resulted in the corporation being fined or otherwise penalized or which resulted in the corporation being required to divest any holdings or being unable to acquire any holdings as a condition for the settlement, dismissal or resolution of those investigations.

3. A corporation that meets the criteria set forth in subsection 2 shall submit a statement which includes the following information with respect to each investigation:
   (a) The jurisdiction in which the investigation was commenced.
   (b) A summary of the nature of the investigation and the facts and circumstances surrounding the investigation.
   (c) If the investigation resulted in criminal or civil litigation, a copy of all pleadings filed in the investigation by any party to the litigation.
   (d) A summary of the outcome of the investigation, including specific information concerning whether any fine or penalty was imposed against the corporation and whether the corporation was required to divest any holdings or was unable to acquire any holdings as a condition for the settlement, dismissal or resolution of the investigation.

4. The fee collected pursuant to subsection 1 must be deposited in the Attorney General’s Administration Budget Account and used solely for the purpose of investigating any alleged contract, combination or conspiracy in restraint of trade, as described in subsection 1 of NRS 598A.060, and subsection 1 of section 20.9 of this act.

Sec. 20.3. NRS 86.264 is hereby amended to read as follows:

86.264 1. At the time of submitting any list required pursuant to NRS 86.263, a limited-liability company that meets the criteria set forth in subsection 2 must submit:
   (a) The statement required pursuant to subsection 3, accompanied by a declaration under penalty of perjury attesting that the statement does not contain any material misrepresentation of fact; and
   (b) A fee of $100,000, to be distributed in the manner provided pursuant to subsection 4.

2. A limited-liability company must submit a statement pursuant to this section if the limited-liability company, including its parent and all subsidiaries:
   (a) Holds 25 percent or more of the share of the market within this State for any product sold or distributed by the limited-liability company within this State; and
   (b) Has had, during the previous 5-year period, a total of five or more investigations commenced against the limited-liability company, its parent or its subsidiaries in any jurisdiction within the United States, including all state and federal investigations:
      (1) Which concern any alleged contract, combination or conspiracy in restraint of trade, as described in subsection 1 of NRS 598A.060, or which
concern similar activities prohibited by a substantially similar law of another jurisdiction; and

(2) Which resulted in the limited-liability company being fined or otherwise penalized or which resulted in the limited-liability company being required to divest any holdings or being unable to acquire any holdings as a condition for the settlement, dismissal or resolution of those investigations.

3. A limited-liability company that meets the criteria set forth in subsection 2 shall submit a statement which includes the following information with respect to each investigation:

(a) The jurisdiction in which the investigation was commenced.
(b) A summary of the nature of the investigation and the facts and circumstances surrounding the investigation.
(c) If the investigation resulted in criminal or civil litigation, a copy of all pleadings filed in the investigation by any party to the litigation.
(d) A summary of the outcome of the investigation, including specific information concerning whether any fine or penalty was imposed against the limited-liability company and whether the limited-liability company was required to divest any holdings or was unable to acquire any holdings as a condition for the settlement, dismissal or resolution of the investigation.

4. The fee collected pursuant to subsection 1 must be deposited in the Attorney General’s Administration Budget Account and used solely for the purpose of investigating any alleged contract, combination or conspiracy in restraint of trade, as described in subsection 1 of NRS 598A.060 and subsection 1 of section 20.9 of this act.

Sec. 20.4. NRS 86.5462 is hereby amended to read as follows:

86.5462  1. At the time of submitting any list required pursuant to NRS 86.5461, a foreign limited-liability company that meets the criteria set forth in subsection 2 must submit:

(a) The statement required pursuant to subsection 3, accompanied by a declaration under penalty of perjury attesting that the statement does not contain any material misrepresentation of fact; and
(b) A fee of $100,000, to be distributed in the manner provided pursuant to subsection 4.

2. A foreign limited-liability company must submit a statement pursuant to this section if the foreign limited-liability company, including its parent and all subsidiaries:

(a) Holds 25 percent or more of the share of the market within this State for any product sold or distributed by the foreign limited-liability company within this State; and
(b) Has had, during the previous 5-year period, a total of five or more investigations commenced against the foreign limited-liability company, its parent or its subsidiaries in any jurisdiction within the United States, including all state and federal investigations:
(1) Which concern any alleged contract, combination or conspiracy in
restraint of trade, as described in subsection 1 of NRS 598A.060, or which
concern similar activities prohibited by a substantially similar law of another
jurisdiction; and

(2) Which resulted in the foreign limited-liability company being fined
or otherwise penalized or which resulted in the foreign limited-liability
company being required to divest any holdings or being unable to acquire any
holdings as a condition for the settlement, dismissal or resolution of those
investigations.

3. A foreign limited-liability company that meets the criteria set forth in
subsection 2 shall submit a statement which includes the following information
with respect to each investigation:

(a) The jurisdiction in which the investigation was commenced.

(b) A summary of the nature of the investigation and the facts and
circumstances surrounding the investigation.

(c) If the investigation resulted in criminal or civil litigation, a copy of all
pleadings filed in the investigation by any party to the litigation.

(d) A summary of the outcome of the investigation, including specific
information concerning whether any fine or penalty was imposed against the
foreign limited-liability company and whether the foreign limited-liability
company was required to divest any holdings or was unable to acquire any
holdings as a condition for the settlement, dismissal or resolution of the
investigation.

4. The fee collected pursuant to subsection 1 must be deposited in the
Attorney General's Administration Budget Account and used solely for the
purpose of investigating any alleged contract, combination or conspiracy in
restraint of trade, as described in subsection 1 of NRS 598A.060 and
subsection 1 of section 20.9 of this act.

Sec. 20.5. NRS 87A.295 is hereby amended to read as follows:

87A.295  1. At the time of submitting any list required pursuant to
NRS 87A.290, a limited partnership that meets the criteria set forth in
subsection 2 must submit:

(a) The statement required pursuant to subsection 3, accompanied by a
declaration under penalty of perjury attesting that the statement does not
contain any material misrepresentation of fact; and

(b) A fee of $100,000, to be distributed in the manner provided pursuant to
subsection 4.

2. A limited partnership must submit a statement pursuant to this section
if the limited partnership, including its parent and all subsidiaries:

(a) Holds 25 percent or more of the share of the market within this State for
any product sold or distributed by the limited partnership within this State; and

(b) Has had, during the previous 5-year period, a total of five or more
investigations commenced against the limited partnership, its parent or its
subsidiaries in any jurisdiction within the United States, including all state and federal investigations:

(1) Which concern any alleged contract, combination or conspiracy in restraint of trade, as described in subsection 1 of NRS 598A.060, or which concern similar activities prohibited by a substantially similar law of another jurisdiction; and

(2) Which resulted in the limited partnership being fined or otherwise penalized or which resulted in the limited partnership being required to divest any holdings or being unable to acquire any holdings as a condition for the settlement, dismissal or resolution of those investigations.

3. A limited partnership that meets the criteria set forth in subsection 2 shall submit a statement which includes the following information with respect to each investigation:

(a) The jurisdiction in which the investigation was commenced.

(b) A summary of the nature of the investigation and the facts and circumstances surrounding the investigation.

(c) If the investigation resulted in criminal or civil litigation, a copy of all pleadings filed in the investigation by any party to the litigation.

(d) A summary of the outcome of the investigation, including specific information concerning whether any fine or penalty was imposed against the limited partnership and whether the limited partnership was required to divest any holdings or was unable to acquire any holdings as a condition for the settlement, dismissal or resolution of the investigation.

4. The fee collected pursuant to subsection 1 must be deposited in the Attorney General’s Administration Budget Account and used solely for the purpose of investigating any alleged contract, combination or conspiracy in restraint of trade, as described in subsection 1 of NRS 598A.060, and subsection 1 of section 20.9 of this act.

Sec. 20.6. NRS 87A.565 is hereby amended to read as follows:

87A.565 1. At the time of submitting any list required pursuant to NRS 87A.560, a foreign limited partnership that meets the criteria set forth in subsection 2 must submit:

(a) The statement required pursuant to subsection 3, accompanied by a declaration under penalty of perjury attesting that the statement does not contain any material misrepresentation of fact; and

(b) A fee of $100,000, to be distributed in the manner provided pursuant to subsection 4.

2. A foreign limited partnership must submit a statement pursuant to this section if the foreign limited partnership, including its parent and all subsidiaries:

(a) Holds 25 percent or more of the share of the market within this State for any product sold or distributed by the foreign limited partnership within this State; and
(b) Has had, during the previous 5-year period, a total of five or more investigations commenced against the foreign limited partnership, its parent or its subsidiaries in any jurisdiction within the United States, including all state and federal investigations:

(1) Which concern any alleged contract, combination or conspiracy in restraint of trade, as described in subsection 1 of NRS 598A.060, or which concern similar activities prohibited by a substantially similar law of another jurisdiction; and

(2) Which resulted in the foreign limited partnership being fined or otherwise penalized or which resulted in the foreign limited partnership being required to divest any holdings or being unable to acquire any holdings as a condition for the settlement, dismissal or resolution of those investigations.

3. A foreign limited partnership that meets the criteria set forth in subsection 2 shall submit a statement which includes the following information with respect to each investigation:

(a) The jurisdiction in which the investigation was commenced.

(b) A summary of the nature of the investigation and the facts and circumstances surrounding the investigation.

(c) If the investigation resulted in criminal or civil litigation, a copy of all pleadings filed in the investigation by any party to the litigation.

(d) A summary of the outcome of the investigation, including specific information concerning whether any fine or penalty was imposed against the foreign limited partnership and whether the foreign limited partnership was required to divest any holdings or was unable to acquire any holdings as a condition for the settlement, dismissal or resolution of the investigation.

4. The fee collected pursuant to subsection 1 must be deposited in the Attorney General’s Administration Budget Account and used solely for the purpose of investigating any alleged contract, combination or conspiracy in restraint of trade, as described in subsection 1 of NRS 598A.060, and subsection 1 of section 20.9 of this act.

Sec. 20.7. NRS 88.397 is hereby amended to read as follows:

88.397 1. At the time of submitting any list required pursuant to NRS 88.395, a limited partnership that meets the criteria set forth in subsection 2 must submit:

(a) The statement required pursuant to subsection 3, accompanied by a declaration under penalty of perjury attesting that the statement does not contain any material misrepresentation of fact; and

(b) A fee of $100,000, to be distributed in the manner provided pursuant to subsection 4.

2. A limited partnership must submit a statement pursuant to this section if the limited partnership, including its parent and all subsidiaries:

(a) Holds 25 percent or more of the share of the market within this State for any product sold or distributed by the limited partnership within this State; and
(b) Has had, during the previous 5-year period, a total of five or more investigations commenced against the limited partnership, its parent or its subsidiaries in any jurisdiction within the United States, including all state and federal investigations:

(1) Which concern any alleged contract, combination or conspiracy in restraint of trade, as described in subsection 1 of NRS 598A.060, or which concern similar activities prohibited by a substantially similar law of another jurisdiction; and

(2) Which resulted in the limited partnership being fined or otherwise penalized or which resulted in the limited partnership being required to divest any holdings or being unable to acquire any holdings as a condition for the settlement, dismissal or resolution of those investigations.

3. A limited partnership that meets the criteria set forth in subsection 2 shall submit a statement which includes the following information with respect to each investigation:

(a) The jurisdiction in which the investigation was commenced.

(b) A summary of the nature of the investigation and the facts and circumstances surrounding the investigation.

(c) If the investigation resulted in criminal or civil litigation, a copy of all pleadings filed in the investigation by any party to the litigation.

(d) A summary of the outcome of the investigation, including specific information concerning whether any fine or penalty was imposed against the limited partnership and whether the limited partnership was required to divest any holdings or was unable to acquire any holdings as a condition for the settlement, dismissal or resolution of the investigation.

4. The fee collected pursuant to subsection 1 must be deposited in the Attorney General’s Administration Budget Account and used solely for the purpose of investigating any alleged contract, combination or conspiracy in restraint of trade, as described in subsection 1 of NRS 598A.060, and subsection 1 of section 20.9 of this act.

Sec. 20.8. NRS 88.5915 is hereby amended to read as follows:
88.5915 1. At the time of submitting any list required pursuant to NRS 88.591, a foreign limited partnership that meets the criteria set forth in subsection 2 must submit:

(a) The statement required pursuant to subsection 3, accompanied by a declaration under penalty of perjury attesting that the statement does not contain any material misrepresentation of fact; and

(b) A fee of $100,000, to be distributed in the manner provided pursuant to subsection 4.

2. A foreign limited partnership must submit a statement pursuant to this section if the foreign limited partnership, including its parent and all subsidiaries:
(a) Holds 25 percent or more of the share of the market within this state for any product sold or distributed by the foreign limited partnership within this State; and

(b) Has had, during the previous 5-year period, a total of five or more investigations commenced against the foreign limited partnership, its parent or its subsidiaries in any jurisdiction within the United States, including all state and federal investigations:

(1) Which concern any alleged contract, combination or conspiracy in restraint of trade, as described in subsection 1 of NRS 598A.060, or which concern similar activities prohibited by a substantially similar law of another jurisdiction; and

(2) Which resulted in the foreign limited partnership being fined or otherwise penalized or which resulted in the foreign limited partnership being required to divest any holdings or being unable to acquire any holdings as a condition for the settlement, dismissal or resolution of those investigations.

3. A foreign limited partnership that meets the criteria set forth in subsection 2 shall submit a statement which includes the following information with respect to each investigation:

(a) The jurisdiction in which the investigation was commenced.

(b) A summary of the nature of the investigation and the facts and circumstances surrounding the investigation.

(c) If the investigation resulted in criminal or civil litigation, a copy of all pleadings filed in the investigation by any party to the litigation.

(d) A summary of the outcome of the investigation, including specific information concerning whether any fine or penalty was imposed against the foreign limited partnership and whether the foreign limited partnership was required to divest any holdings or was unable to acquire any holdings as a condition for the settlement, dismissal or resolution of the investigation.

4. The fee collected pursuant to subsection 1 must be deposited in the Attorney General’s Administration Budget Account and used solely for the purpose of investigating any alleged contract, combination or conspiracy in restraint of trade, as described in subsection 1 of NRS 598A.060. Sec. 20.9 of this act.

Sec. 20.9. Chapter 598A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A violation of this subsection constitutes a contract in restraint of trade. A provider of health care shall not enter into, offer to enter into or solicit a contract with a third party that directly or indirectly:

(a) Restricts the third party from offering incentives to a covered person to use specific providers of health care or otherwise steering a covered person to a specific provider of health care;

(b) Restricts the third party from assigning providers of health care into tiers for the purpose of encouraging the use of certain providers of health care;
(c) Requires the third party to place all providers of health care affiliated with a business entity in the same tier;
(d) Requires the third party to contract with a business entity affiliated with a provider of health care as a condition of entering into a contract with the provider of health care; or
(e) Prohibits the third party from contracting with a provider of health care that is not a party to the contract or penalizes the third party for entering into such a contract.

2. A contract between a provider of health care and a third party may include any provisions not expressly prohibited by subsection 1 or otherwise prohibited by law.

3. Any provision of a contract that violates the provisions of subsection 1 is void and severable from the contract.

4. As used in this section:
   (a) “Covered person” means a policyholder, subscriber, enrollee or other person covered by a third party.
   (b) “Provider of health care” means:
   (1) A physician or other health care practitioner who is licensed or otherwise authorized in this State to furnish any health care service; or
   (2) An institution providing health care services or other setting in which health care services are provided, including, without limitation, a hospital, surgical center for ambulatory patients, facility for skilled nursing, residential facility for groups, laboratory and any other such licensed facility.
   (c) “Third party” means any insurer, governmental entity or other organization providing health coverage or benefits in accordance with state or federal law.

Sec. 21. The amendatory provisions of [sections 2, 10, 11 and 12] section 20.9 of this act do not apply to any contract existing on October 1, 2021, but apply to any renewal of such a contract.

Sec. 22. 1. This section becomes effective upon passage and approval.
2. Sections 1 to 21, inclusive, of this act become effective:
   (a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and
   (b) On October 1, 2021, for all other purposes.

Senator Ratti moved the adoption of the amendment.
Remarks by Senator Ratti.
(To be entered at a later date.)

Amendment adopted.
Bill read third time.
Remarks by Senator Lange.
(To be entered at a later date.)
Roll call on Senate Bill No. 329:
YEAS—12.

Senate Bill No. 329 having received a constitutional majority, Madam President declared it passed, as amended. Bill ordered transmitted to the Assembly.

Senate Bill No. 354.
Bill read third time.
Remarks by Senator Denis.
(To be entered at a later date.)

Roll call on Senate Bill No. 354:
YEAS—16.
NAYS—Buck, Hansen, Hardy, Pickard, Settelmeyer—5.

Senate Bill No. 354 having received a constitutional majority, Madam President declared it passed, as amended. Bill ordered transmitted to the Assembly.

Senate Bill No. 369.
Bill read third time.
Remarks by Senators Ohrenschall, Settelmeyer and Cannizzaro.

SENATOR OHRENSCHALL:
(To be entered at a later date.)

SENATOR SETTELMEYER:
(To be entered at a later date.)

SENATOR CANNIZZARO:
(To be entered at a later date.)

Roll call on Senate Bill No. 369:
YEAS—17.
NAYS—Buck, Goicoechea, Hardy, Settelmeyer—4.

Senate Bill No. 369 having received a constitutional majority, Madam President declared it passed, as amended. Bill ordered transmitted to the Assembly.

Senate Bill No. 381.
Bill read third time.
The following amendment was proposed by Senator Dondero Loop:
Amendment No. 480.
SUMMARY—Revises provisions relating to [certain businesses] service contracts. (BDR [52-1009] 57-1009)
AN ACT relating to [businesses; exempting certain creditors from provisions governing deferred deposit loans, high-interest loans and title loans under certain circumstances;] service contracts; revising provisions relating to
service contracts and providers of service contracts; setting forth various requirements and restrictions for providers of home service contracts; revising certain fees for providers of service contracts; setting forth certain requirements relating to the payment of a refund to the holder of a service contract who cancels or returns the service contract; setting forth certain requirements for the content of a service contract; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law exempts from provisions governing the licensure and regulation of providers of deferred deposit loans, high-interest loans and title loans a person who exclusively extends credit to any person who is not a resident of this State for any business, commercial or agricultural purpose that is located outside of this State. (NRS 604A.250) Section 1 of this bill revises this exemption to apply to a person who exclusively extends credit to any person for any business, commercial or agricultural purpose, regardless of any personal guarantee or collateral and regardless of whether the debtor is a resident of this State or the purpose is located in this State.

Existing law provides for the registration and regulation of providers of service contracts in this State by the Commissioner of Insurance. (Chapter 690C of NRS) Existing law defines “service contract” to generally mean a contract pursuant to which a provider is obligated for a specified period to a holder to repair, replace or perform maintenance on, or indemnify or reimburse the holder for the costs of repairing, replacing or performing maintenance on, goods that are described in the service contract. (NRS 690C.080) Sections 11 and 12 of this bill, respectively, revise the definitions of “provider” and “service contract” to, among other things, include the servicing of a good as a service for which a provider may be obligated under a service contract.

Section 12 also revises the definition of “service contract” to include a “home service contract,” which is defined in section 4 of this bill to generally mean a service contract that covers goods which are household appliances, systems or components. Section 10 of this bill revises the definition of “goods” to specify that the term includes a household appliance, system or component. Section 5 of this bill imposes certain requirements on a provider who issues or sells a home service contract relating to claims for services under the contract. Section 6 of this bill prohibits certain practices by providers who have issued or sold a home service contract.

Section 3.5 of this bill defines “emergency service contract” to mean a home service contract whereby the provider agrees to provide repairs on an expedited basis and within a specified period of time. Section 6.5 of this bill requires a provider to include certain disclosures in any advertising, sales, marketing or other promotional materials offering a home service contract that is not an emergency service contract.
Existing regulations require a provider to refund the unearned purchase price of a service contract to a holder who requests the cancellation of the service contract in accordance with the terms of the contract. Existing regulations authorize a provider to impose a reasonable fee for such a cancellation under certain circumstances. (NAC 690C.120) Section 7 of this bill codifies these provisions in statute. Section 7 also provides that, for a home service contract, 10 percent of the purchase price of the contract or $75, whichever is less, is deemed to be a reasonable cancellation fee. Section 7 further allows a provider to deduct from the portion of the purchase price that is unearned by the provider any claims paid by the provider during the contract year in which the holder requests the cancellation of the service contract. Section 18 of this bill revises provisions of existing law which prohibit the cancellation of a service contract from becoming effective until at least 15 days after notice of cancellation is mailed to the holder for the purpose of clarifying this prohibition applies only to the cancellation of a service contract by the provider who issued or sold the contract. (NRS 690C.270)

Existing law provides that the sale of a service contract pursuant to the provisions of existing law governing the sale of service contracts to consumers does not constitute the business of insurance for the purposes of certain provisions of federal law that impose civil and criminal penalties upon certain persons engaged in the business of insurance who engage in certain fraudulent activities. (NRS 690C.100; 18 U.S.C. §§ 1033-1034) Section 13 of this bill provides that the sale of a service contract to any other third party also does not constitute the business of insurance for the purposes of those provisions of federal law.

Existing law requires a provider who wishes to issue, sell or offer for sale service contracts in this State to pay an initial fee in the amount of $1,300 at the time of submission of an application for registration and an annual fee in the amount of $1,300. (NRS 680C.110, 690C.160) Sections 2 and 14 of this bill instead require a provider to pay an initial fee in the amount of $2,600 and a biennial fee in the amount of $2,600. Section 15 of this bill revises provisions relating to the amount of money that a provider is required to maintain in a reserve account and the amount of a security that a provider is required to deposit with the Commissioner to satisfy certain requirements for the issuance of a certificate of registration. (NRS 690C.170)

Existing law sets forth certain requirements for the content of a service contract. (NRS 690C.260) Section 17 of this bill requires certain additional information to be included in a service contract.

Section 9 of this bill makes a conforming change to indicate the proper placement of new provisions in the Nevada Revised Statutes.

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

Section 1. [NRS 604A.250 is hereby amended to read as follows:]

604A.250 The provisions of this chapter do not apply to:
1. Except as otherwise provided in NRS 604A.200, a person doing business pursuant to the authority of any law of this State or of the United States relating to banks, national banking associations, savings banks, trust companies, savings and loan associations, credit unions, mortgage companies, thrift companies or insurance companies, including, without limitation, any affiliate or subsidiary of such a person regardless of whether the affiliate or subsidiary is a bank.

2. A person who is primarily engaged in the retail sale of goods or services who:
   (a) As an incident to or independently of a retail sale or service, from time to time cashes checks for a fee or other consideration of not more than $2; and
   (b) Does not hold himself or herself out as a check-cashing service.

3. A person while performing any act authorized by a license issued pursuant to chapter 671 of NRS.

4. A person who holds a nonrestricted gaming license issued pursuant to chapter 463 of NRS while performing any act in the course of that licensed operation.

5. A person who is exclusively engaged in a check-cashing service relating to out of state checks.

6. A corporation organized pursuant to the laws of this State that has been continuously and exclusively engaged in a check-cashing service in this State since July 1, 1973.

7. A pawnbroker, unless the pawnbroker operates a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service.


9. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan’s trustee.

10. An attorney at law rendering services in the performance of his or her duties as an attorney at law if the loan is secured by real property.

11. A real estate broker rendering services in the performance of his or her duties as a real estate broker if the loan is secured by real property.

12. Any firm or corporation:
   (a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;
   (b) Approved by the Federal National Mortgage Association as a seller or servicer; and
   (c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

13. A person who provides money for investment in loans secured by a lien on real property, on his or her own account.

14. A seller of real property who offers credit secured by a mortgage of the property sold.
15. A person who makes a refund anticipation loan, unless the person operates a check-cashing service, deferred deposit loan service, high interest loan service or title loan service.
16. A person who exclusively extends credit to any person [who is not a resident of this State] on an amount of $50,000 or more for any business, commercial or agricultural purpose [, that is located outside of this State], regardless of any personal guarantee or collateral. (Deleted by amendment.)

Sec. 2. NRS 680C.110 is hereby amended to read as follows:

680C.110 1. In addition to any other fee or charge, the Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, the fees required by this section.
2. A fee required by this section must be:
   (a) If an initial fee, paid at the time of an initial application or issuance of a license, as applicable;
   (b) Except as otherwise provided in NRS 680A.180, 683A.378, 686A.380, 690C.160, 694C.230, 695A.080, 695B.135, 695D.150, 695H.090 and 696A.150, if an annual fee, paid on or before the date established by regulation of the Commissioner;
   (c) If a biennial fee required by subparagraph (2) of paragraph (x), paid on or before the date set forth in NRS 690C.160;
   (d) If a triennial fee, paid on or before the time of continuation, renewal or other similar action in regard to a certificate, license, permit or other type of authorization, as applicable; and
   (e) Deposited in the Fund for Insurance Administration and Enforcement created by NRS 680C.100.
3. The fees required pursuant to this section are not refundable.
4. The following fees must be paid by the following persons to the Commissioner:
   (a) Associations of self-insured private employers, as defined in NRS 616A.050:
      (1) Initial fee: $1,300
      (2) Annual fee: $1,300
   (b) Associations of self-insured public employers, as defined in NRS 616A.055:
      (1) Initial fee: $1,300
      (2) Annual fee: $1,300
   (c) Independent review organizations, as provided for in NRS 616A.469 or 683A.3715, or both:
      (1) Initial fee: $60
      (2) Annual fee: $60
   (d) Producers of insurance, as defined in NRS 679A.117:
      (1) Initial fee: $60
      (2) Triennial fee: $60
(e) Reinsurers, as provided for in NRS 681A.1551 or 681A.160, as applicable:
   (1) Initial fee .................................................................................. $1,300
   (2) Annual fee .................................................................................. $1,300

(f) Intermediaries, as defined in NRS 681A.330:
   (1) Initial fee .................................................................................. $60
   (2) Triennial fee ............................................................................... $60

(g) Reinsurers, as defined in NRS 681A.370:
   (1) Initial fee .................................................................................. $1,300
   (2) Annual fee .................................................................................. $1,300

(h) Administrators, as defined in NRS 683A.025:
   (1) Initial fee .................................................................................. $60
   (2) Triennial fee ............................................................................... $60

(i) Managing general agents, as defined in NRS 683A.060:
   (1) Initial fee .................................................................................. $60
   (2) Triennial fee ............................................................................... $60

(j) Agents who perform utilization reviews, as defined in NRS 683A.376:
   (1) Initial fee .................................................................................. $60
   (2) Annual fee .................................................................................. $60

(k) Insurance consultants, as defined in NRS 683C.010:
   (1) Initial fee .................................................................................. $60
   (2) Triennial fee ............................................................................... $60

(l) Independent adjusters, as defined in NRS 684A.030:
   (1) Initial fee .................................................................................. $60
   (2) Triennial fee ............................................................................... $60

(m) Public adjusters, as defined in NRS 684A.030:
   (1) Initial fee .................................................................................. $60
   (2) Triennial fee ............................................................................... $60

(n) Motor vehicle physical damage appraisers, as defined in NRS 684B.010:
   (1) Initial fee .................................................................................. $60
   (2) Triennial fee ............................................................................... $60

(o) Brokers, as defined in NRS 685A.031:
   (1) Initial fee .................................................................................. $60
   (2) Triennial fee ............................................................................... $60

(p) Companies, as defined in NRS 686A.330:
   (1) Initial fee .................................................................................. $1,300
   (2) Annual fee .................................................................................. $1,300

(q) Rate service organizations, as defined in NRS 686B.020:
   (1) Initial fee .................................................................................. $1,300
   (2) Annual fee .................................................................................. $1,300

(r) Brokers of viatical settlements, as defined in NRS 688C.030:
   (1) Initial fee .................................................................................. $60
   (2) Annual fee .................................................................................. $60
(s) Providers of viatical settlements, as defined in NRS 688C.080:
   (1) Initial fee................................................................. $60
   (2) Annual fee.................................................................. $60

(t) Agents for prepaid burial contracts subject to the provisions of
   chapter 689 of NRS:
   (1) Initial fee................................................................. $60
   (2) Triennial fee............................................................... $60

(u) Agents for prepaid funeral contracts subject to the provisions of
   chapter 689 of NRS:
   (1) Initial fee................................................................. $60
   (2) Triennial fee............................................................... $60

(v) Sellers of prepaid burial contracts subject to the provisions of
   chapter 689 of NRS:
   (1) Initial fee................................................................. $60
   (2) Triennial fee............................................................... $60

(w) Sellers of prepaid funeral contracts subject to the provisions of
   chapter 689 of NRS:
   (1) Initial fee................................................................. $60
   (2) Triennial fee............................................................... $60

(x) Providers, as defined in NRS 690C.070:
   (1) Initial fee................................................................... $60
   (2) Triennial fee............................................................... $60

(y) Escrow officers, as defined in NRS 692A.028:
   (1) Initial fee................................................................. $60
   (2) Triennial fee............................................................... $60

(z) Title agents, as defined in NRS 692A.060:
   (1) Initial fee................................................................. $60
   (2) Triennial fee............................................................... $60

(aa) Captive insurers, as defined in NRS 694C.060:
   (1) Initial fee................................................................. $250
   (2) Annual fee............................................................... $250

(bb) Purchasing groups, as defined in NRS 695E.100:
   (1) Initial fee................................................................. $250
   (2) Annual fee............................................................... $250

(cc) Risk retention groups, as defined in NRS 695E.110:
   (1) Initial fee................................................................. $250
   (2) Annual fee............................................................... $250

(dd) Medical discount plans, as defined in NRS 695H.050:
   (1) Initial fee................................................................. $1,300
   (2) Annual fee............................................................... $1,300

(ee) Club agents, as defined in NRS 696A.040:
   (1) Initial fee................................................................. $60
   (2) Triennial fee............................................................... $60

(ff) Motor clubs, as defined in NRS 696A.050:
5. An initial fee of $1,000 must be paid to the Commissioner by each:
(a) Insurer who is authorized to transact casualty insurance, as defined in NRS 681A.020;
(b) Insurer who is authorized to transact health insurance, as defined in NRS 681A.030;
(c) Insurer who is authorized to transact life insurance, as defined in NRS 681A.040;
(d) Insurer who is authorized to transact property insurance, as defined in NRS 681A.060;
(e) Title insurer, as defined in NRS 692A.070;
(f) Fraternal benefit society, as defined in NRS 695A.010;
(g) Corporation subject to the provisions of chapter 695B of NRS;
(h) Health maintenance organization, as defined in NRS 695C.030;
(i) Organization for dental care, as defined in NRS 695D.060; and
(j) Prepaid limited health service organization, as defined in NRS 695F.050.
6. An insurer who is required to pay an initial fee of $1,000 pursuant to subsection 5 shall also pay to the Commissioner an annual fee in an amount determined by the Commissioner. When determining the amount of the annual fee, the Commissioner must consider:
(a) The direct written premiums reported to the Commissioner by the insurer during the previous year;
(b) The number of insurers who are required to pay an annual fee pursuant to this subsection;
(c) The direct written premiums reported during the previous year by all insurers paying such fees; and
(d) The budget of the Division.
7. An insurer who is not required to pay an initial or annual fee pursuant to subsection 4 or subsections 5 and 6 shall pay to the Commissioner an initial fee of $1,300 and an annual fee of $1,300.

Sec. 3. Chapter 690C of NRS is hereby amended by adding thereto the provisions set forth as sections 3.5 to 8, inclusive, of this act.

Sec. 3.5. “Emergency service contract” means a home service contract whereby the provider agrees to provide repairs on an expedited basis and within a specified period of time.

Sec. 4. “Home service contract” means a service contract which covers goods that are household appliances, systems or components. The term includes a contract described in paragraph (b) of subsection 2 of NRS 690B.100.

Sec. 5. 1. A provider who has issued or sold a home service contract shall conduct and diligently pursue a thorough, fair and objective investigation relating to each claim for services under the contract and shall not persist in seeking information that is not reasonably required for or material to the resolution of a claim.

2. If a holder of a home service contract that is not an emergency service contract makes a claim for services involving the repair of a heating or cooling system covered by the home service contract during a period of extreme heat or cold or any other repair of goods covered by the home service contract that affect the immediate health and safety of the holder, the provider shall:
   (a) Respond to the claim within 24 hours after the receipt of the claim; and
   (b) If the provider has not completed the repairs within 72 hours, the provider shall provide to the holder written procedures for expediting the completion of the repairs.

3. If a provider who has issued or sold a home service contract denies a claim for services, in whole or in part, the provider shall communicate the denial to the holder by mail, electronic mail or in any other manner established by the home service contract that is written and reproducible.

Sec. 6. A provider who has issued or sold a home services contract shall not:

1. Attempt to settle a claim by making a settlement offer that is unreasonably unfair or unreasonably less that the benefits described in the home service contract;

2. Deny a claim based on information obtained in a telephone conversation or personal interview with any source unless the telephone conversation or personal interview is documented in the records relating to the claim that are required to be maintained pursuant to NRS 690C.310;

3. Require that a holder of a home service contract withdraw, rescind or refrain from submitting any complaint to the Commissioner regarding the handling of a claim or any other matter complained of as a condition precedent to the settlement of any claim;
4. Misrepresent or conceal benefits, time limits or other provisions of the home service contract; or

5. Discriminate in its claim management practices based on age, race, ethnicity, ancestry, national origin, sex, gender identity or expression, religion, income, language or mental or physical disability.

Sec. 6.5. If a provider or an agent of a provider uses advertising, sales, marketing or other promotional materials to offer a home service contract that is not an emergency service contract, the materials must contain a statement to the effect that the home service contract being offered is not an emergency service contract and that services under the contract will be provided as soon as commercially and practically feasible.

Sec. 7. 1. If a holder who is the original purchaser of a service contract submits to the provider a request in writing to cancel the service contract in accordance with the terms of the contract, the provider shall refund to the holder the portion of the purchase price that is unearned by the provider.

2. If a holder requests the cancellation of a service contract pursuant to subsection 1, the provider may impose a reasonable cancellation fee if such a fee is provided for in the terms of the service contract.

3. When calculating the amount of a refund pursuant to subsection 1, the provider may deduct from the portion of the purchase price that is unearned by the provider any:

   (a) Outstanding balance on the account of the holder;

   (b) Any claims paid by the provider during the contract year in which the holder requests the cancellation of the service contract; and

   (c) Cancellation fee imposed pursuant to this section.

4. For the cancellation of a service contract that is a home service contract, a cancellation fee of not more than 10 percent of the purchase price of the contract or $75, whichever is less, shall be deemed to be a reasonable cancellation fee for the purposes of subsection 2.

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 690C.010 is hereby amended to read as follows:

690C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 690C.020 to 690C.080, inclusive, and sections 3.5 and 4 of this act have the meanings ascribed to them in those sections.

Sec. 10. NRS 690C.050 is hereby amended to read as follows:

690C.050 “Goods” means all tangible personal property, whether movable at the time of purchase or a fixture, that is used primarily for personal, family or household purposes. The term includes, without limitation, a household appliance, system or component.

Sec. 11. NRS 690C.070 is hereby amended to read as follows:

690C.070 “Provider” means a person who is contractually or financially obligated to a holder pursuant to the terms of a service contract to service, repair, replace or perform maintenance on, or to indemnify or reimburse the
holder for any part of the costs of servicing, repairing, replacing or performing maintenance on, goods.

Sec. 12. NRS 690C.080 is hereby amended to read as follows:

690C.080 1. “Service contract” means a contract [pursuant to which a provider, in exchange] or agreement for a separately stated consideration [or for a specific duration pursuant to which a provider is obligated [for a specified period] to a holder to service, repair, replace or perform maintenance on, or indemnify or reimburse the holder for any part of the costs of servicing, repairing, replacing or performing maintenance on, goods that are described in the service contract and which have an operational or structural failure as a result of a defect in materials, workmanship or normal wear and tear, including, without limitation:

(a) A contract that includes a provision for incidental payment of indemnity under limited circumstances, including, without limitation, towing, rental and emergency road service; and

(b) A contract that provides for the repair, replacement or maintenance of goods for damages that result from power surges or accidental damage from handling; and

(c) A home service contract.

2. The term does not include a contract pursuant to which a provider, other than the manufacturer, builder, seller or lessor of a manufactured home, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair or replace, or indemnify or reimburse the holder for the costs of repairing or replacing, any component of the physical structure of the manufactured home, including, without limitation, the walls, roof supports, structural floor base or foundation.

Sec. 13. NRS 690C.100 is hereby amended to read as follows:

690C.100 1. The provisions of this title do not apply to:

(a) A warranty;
(b) A maintenance agreement;
(c) A service contract provided by a public utility on its transmission device if the service contract is regulated by the Public Utilities Commission of Nevada;
(d) A service contract sold or offered for sale to a person who is not a consumer;
(e) A service contract for goods if the purchase price of the goods is less than $250; or
(f) A service contract issued, sold or offered for sale by a vehicle dealer on vehicles sold by the dealer, if the dealer is licensed pursuant to NRS 482.325 and the service contract obligates either the dealer or the manufacturer of the vehicle, or an affiliate of the dealer or manufacturer, to provide all services under the service contract.
2. The sale of a service contract to a consumer pursuant to this chapter or to any other third party does not constitute the business of insurance for the purposes of 18 U.S.C. §§ 1033 and 1034.

3. As used in this section:
   (a) “Maintenance agreement” means a contract [for a limited period] that provides only for scheduled maintenance.
   (b) “Warranty” means a warranty provided solely by a manufacturer, importer or seller of goods for which the manufacturer, importer or seller did not receive separate consideration and that:
      (1) Is not negotiated or separated from the sale of the goods;
      (2) Is incidental to the sale of the goods; and
      (3) Guarantees to indemnify the consumer for defective parts, mechanical or electrical failure, labor or other remedial measures required to repair or replace the goods.

Sec. 14. NRS 690C.160 is hereby amended to read as follows:

690C.160 1. A provider who wishes to issue, sell or offer for sale service contracts in this state must submit to the Commissioner:
   (a) A registration application on a form prescribed by the Commissioner;
   (b) Proof that the provider has complied with the requirements for financial security set forth in NRS 690C.170;
   (c) A copy of each type of service contract the provider proposes to issue, sell or offer for sale;
   (d) The name, address and telephone number of each administrator with whom the provider intends to contract;
   (e) A fee of $2,000 and all applicable fees required pursuant to NRS 680C.110 to be paid at the time of application; and
   (f) The following information for each controlling person:
      (1) Whether the person, in the last 10 years, has been:
         (I) Convicted of a felony or misdemeanor of which an essential element is fraud;
         (II) Insolvent or adjudged bankrupt;
         (III) Refused a license or registration as a service contract provider or had an existing license or registration as a service contract provider suspended or revoked by any state or governmental agency or authority; or
         (IV) Fined by any state or governmental agency or authority in any matter regarding service contracts; and
      (2) Whether there are any pending criminal actions against the person other than moving traffic violations.

2. In addition to the fee required by subsection 1, a provider must pay a fee of $25 for each type of service contract the provider files with the Commissioner.

3. [Each year.] Every 2 years, not later than the anniversary date of his or her certificate of registration, a provider must pay the [annual] biennial fee
required pursuant to NRS 680C.110 in addition to any other fee required pursuant to this section.

4. A certificate of registration is valid for 2 years after the date the Commissioner issues the certificate to the provider. A provider may renew his or her certificate of registration if, not later than 60 days before the certificate expires, the provider submits to the Commissioner:

(a) An application on a form prescribed by the Commissioner;
(b) A fee of $2,000 and, in addition to any other fee or charge, all applicable fees required pursuant to subsection 3; and
(c) The information required by paragraph (f) of subsection 1:
   (1) If an existing controlling person has had a change in any of the information previously submitted to the Commissioner; or
   (2) For a controlling person who has not previously submitted the information required by paragraph (f) of subsection 1 to the Commissioner.

5. All fees paid pursuant to this section are nonrefundable.

6. Each application submitted pursuant to this section, including, without limitation, an application for renewal, must:
   (a) Be signed by an executive officer, if any, of the provider or, if the provider does not have an executive officer, by a controlling person of the provider; and
   (b) Have attached to it an affidavit signed by the person described in paragraph (a) which meets the requirements of subsection 7.

7. Before signing the application described in subsection 6, the person who signs the application shall verify that the information provided is accurate to the best of his or her knowledge.

Sec. 15. NRS 690C.170 is hereby amended to read as follows:

690C.170 1. To be issued a certificate of registration, a provider must comply with one of the following to provide for financial security:
   (a) Purchase a contractual liability insurance policy which insures the obligations of each service contract the provider issues, sells or offers for sale. The contractual liability insurance policy must:
      (1) Be issued by an insurer which is licensed, registered or otherwise authorized to transact insurance in this state or pursuant to the provisions of chapter 685A of NRS.
      (2) Contain a provision prohibiting the insurer from terminating the policy until a notice of termination has been mailed or delivered to the Commissioner at least 60 days prior to the termination of the policy. Any such termination shall not reduce the responsibility of the insurer for service contracts issued by the provider prior to the effective date of termination.
   (b) Maintain a reserve account in this State and deposit with the Commissioner security as provided in this subsection. The reserve account must contain at all times an amount of money equal to at least 40 percent of the 
   [unearned] gross consideration received by the provider, less claims paid, for any unexpired service contracts which are sold and cover goods in this
The reserve account must be kept separate from the operating accounts of the provider and must be clearly identified as the “(Provider’s Name) Nevada Service Contracts Funded Reserve Account.” The Commissioner may examine the reserve account at any time. The provider shall also deposit with the Commissioner security in an amount that is equal to $25,000 or 10 percent of the [unearned] gross consideration received by the provider, less claims paid, for any unexpired service contracts which are sold and cover goods in this State, whichever is greater. The security must be:

1. A surety bond issued by a surety company authorized to do business in this State;
2. Securities of the type eligible for deposit pursuant to NRS 682B.030;
3. Cash;
4. An irrevocable letter of credit issued by a financial institution approved by the Commissioner; or
5. In any other form prescribed by the Commissioner.

(c) Maintain, or be a subsidiary of a parent company that maintains, a net worth or stockholders’ equity of at least $100,000,000. Upon request, a provider shall provide to the Commissioner a copy of the most recent Form 10-K report or Form 20-F report filed by the provider or parent company of the provider with the Securities and Exchange Commission within the previous year. If the provider or parent company is not required to file these reports with the Securities and Exchange Commission, the provider shall provide to the Commissioner a copy of the most recently audited financial statements of the provider or parent company. If the net worth or stockholders’ equity of the parent company of the provider is used to comply with the requirements of this subsection, the parent company must guarantee to carry out the duties of the provider under any service contract issued or sold by the provider.

2. A provider shall not use any money in a reserve account described in paragraph (b) of subsection 1 for any purpose other than to pay an obligation of the provider under an unexpired service contract in this State.

3. A provider shall maintain the financial security required by subsection 1 until:

(a) The provider ceases doing business in this State; and
(b) The provider has performed or otherwise satisfied all liabilities and obligations under all unexpired service contracts issued by the provider in this State.

4. If the certificate of registration of a provider has not expired and the provider fails to maintain the financial security required by subsection 1, including, without limitation, if the financial security is cancelled or lapses, the provider shall not issue or sell a service contract on or after the effective date of such failure until the provider submits to the Commissioner proof satisfactory to the Commissioner that the provider is in compliance with subsection 1.
Sec. 16. NRS 690C.250 is hereby amended to read as follows:

690C.250  1. A service contract is void and a provider shall refund to the holder the purchase price of the service contract if the holder has not made a claim under the service contract and the holder returns the service contract to the provider:
   (a) Within 20 days after the date the provider sends a copy of the service contract to the holder;
   (b) Within 10 days after the purchaser receives a copy of the service contract if the provider furnishes the holder with the copy at the time the contract is purchased; or
   (c) Within a longer period specified in the service contract.
2. The right of a holder to return a service contract pursuant to this section applies only to the original purchaser of the service contract.
3. A service contract must include a provision that clearly states the right of a holder to return a service contract pursuant to this section.
4. The provider shall refund to the holder the purchase price of the service contract within 45 days after a service contract is returned pursuant to subsection 1. If the provider fails to refund the purchase price within that time, the provider shall pay the holder a penalty of 10 percent of the purchase price for each 30-day period or portion thereof that the refund and any accrued penalties remain unpaid.

Sec. 17. NRS 690C.260 is hereby amended to read as follows:

690C.260  1. A service contract must:
   (a) Be written in language that is understandable and printed in at least 10-point Courier font or other similar font that is easy to read.
   (b) Indicate that it is insured by a contractual liability insurance policy if it is so insured, and include the name and address of the issuer of the policy or that it is backed by the full faith and credit of the provider if the service contract is not insured by a contractual liability insurance policy.
   (c) Include the amount of any deductible or fee for services that the holder is required to pay.
   (d) Include the name and address of the provider and, if applicable:
      (1) The name and address of the administrator; and
      (2) The name of the holder, if provided by the holder.
   The names and addresses of such persons are not required to be preprinted on the service contract and may be added to the service contract at the time of the sale.
   (e) Include the purchase price of the service contract. The purchase price must be determined pursuant to a schedule of fees established by the provider. The purchase price is not required to be preprinted on the service contract and may be negotiated with the holder and added to the service contract at the time of sale.
   (f) Include a description of the goods covered by the service contract.
(g) Specify the duties of the provider and any limitations, exceptions or exclusions.

(h) If the service contract covers a motor vehicle, indicate whether replacement parts that are not made for or by the original manufacturer of the motor vehicle may be used to comply with the terms of the service contract.

(i) Include any restrictions on transferring or renewing the service contract.

(j) Include the terms, restrictions or conditions for cancelling the service contract before it expires and the procedure for cancelling the service contract. The conditions for cancelling the service contract must include, without limitation, the provisions of NRS 690C.270.

(k) Include the duties of the holder under the contract, including, without limitation, the duty to protect against damage to the goods covered by the service contract or to comply with any instructions included in the owner’s manual for the goods.

(l) Indicate whether the service contract authorizes the holder to recover consequential damages.

(m) Indicate whether any defect in the goods covered by the service contract existing on the date the contract is purchased is not covered under the service contract.

(n) Indicate that services will be performed upon the making of a claim for services, without any requirement that additional forms or applications to request services be filed before the rendition of services.

(o) If the service contract requires the holder to obtain prior approval before the provision of services, include a procedure for obtaining such approval, which must include, without limitation, a toll-free telephone number through which the holder may obtain such approval.

(p) If the service contract includes the provision of emergency services performed outside of normal business hours, include procedures for obtaining such emergency services.

(q) If the service contract is a home service contract that is not an emergency service contract, include the following statement: “This is not an emergency service contract and services will be provided as soon as commercially and practically feasible.”

2. A provider shall not allow, make or cause to be made a false or misleading statement in any of the service contracts of the provider or intentionally omit a material statement that causes a service contract to be misleading. The Commissioner may require the provider to amend any service contract that the Commissioner determines is false or misleading.

Sec. 18. NRS 690C.270 is hereby amended to read as follows:

690C.270 1. No service contract that has been in effect for at least 70 days may be cancelled by the provider before the expiration of the agreed term or 1 year after the effective date of the service contract, whichever occurs first, except on any of the following grounds:

(a) Failure by the holder to pay an amount when due;
(b) Conviction of the holder of a crime which results in an increase in the service required under the service contract;
(c) Discovery of fraud or material misrepresentation by the holder in obtaining the service contract, or in presenting a claim for service thereunder;
(d) Discovery of:
   (1) An act or omission by the holder; or
   (2) A violation by the holder of any condition of the service contract, which occurred after the effective date of the service contract and which substantially and materially increases the service required under the service contract; or
(e) A material change in the nature or extent of the required service or repair which occurs after the effective date of the service contract and which causes the required service or repair to be substantially and materially increased beyond that contemplated at the time that the service contract was issued or sold.
2. No cancellation of a service contract by a provider may become effective until at least 15 days after the notice of cancellation is mailed to the holder.

Senator Dondero Loop moved the adoption of the amendment.
Remarks by Senator Dondero Loop.
(To be entered at a later date.)

Amendment adopted.
Bill read third time.
Remarks by Senator Dondero Loop.
(To be entered at a later date.)

Roll call on Senate Bill No. 381:
YEAS—21.
NAYS—None.

Senate Bill No. 381 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 389
Bill read third time.
The following amendment was proposed by the Committee on Revenue and Economic Development:
Amendment No. 391.
SUMMARY—Establishes provisions governing peer-to-peer car sharing programs. (BDR 43-585)
AN ACT relating to motor vehicles; requiring the charging and collecting of certain fees when a vehicle is shared through a peer-to-peer car sharing program; providing a penalty; and providing other matters properly relating thereto.
Legislative Counsel’s Digest:

Section 20 of this bill requires a person to obtain a license from the Department of Motor Vehicles before operating a peer-to-peer car sharing program in this State and establishes provisions governing the issuance and renewal of such a license. Section 21 of this bill establishes the grounds upon which the Department may refuse to issue or suspend or revoke a license. Sections 22 and 23 of the bill establish procedures to review a decision of the Department to refuse to issue or suspend or revoke a license. Section 24 of this bill provides for the filing of a bond or, alternatively, a deposit by a licensee.

Existing law requires, with certain exceptions, a person who leases a passenger car to another person for a period of 31 days or less, or by the day or by the trip, to charge and collect a governmental services fee of 10 percent of the total amount for which the passenger car was leased, excluding certain charges, and certain additional fees imposed by certain counties. (NRS 482.313) Section 11.3 of this bill similarly requires a peer-to-peer car sharing program, with certain exceptions, to collect from each shared vehicle driver a governmental services fee of 10 percent of the total amount for which a passenger car was shared through the program, plus any additional fee imposed on the sharing of the passenger car by authorized counties. Section 11.3 requires the peer-to-peer car sharing program to remit such fees to the Department of Taxation, along with a quarterly report. Section 11.7 of this bill requires a peer-to-peer car sharing program to maintain certain records. Sections 31.1 and 31.2-31.65 of this bill make conforming changes to provide for the administration of the governmental services fee by the Department of Taxation.

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) 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) A “retail sale” does not include a sale for resale in the regular course of business and a purchaser of tangible personal property who purchases the property for resale in the regular course of business may present a resale certificate to the retailer to avoid collection of the sales and use tax. (NRS 372.050, 372.155, 372.225, 374.055, 374.160, 374.230) A person who purchases tangible personal property for the purpose of renting or leasing the property to customers may elect to pay sales and use tax on the purchase price of the tangible personal property or to collect and remit sales and use tax on the rental price of the tangible personal property to a customer. (NRS 372.060, NRS 372.170, 372.240, 374.065, 374.175, 374.245; NAC 372.938) Section 11.5 of this bill prohibits a peer-to-peer car sharing program from operating in this State unless the program has entered into an agreement with the Department of Taxation to collect and remit, on
behalf of the shared vehicle owner, sales and use tax on the total amount for
which a shared vehicle was shared through the program if the owner of the
shared vehicle has not, for any reason, paid any sales or use tax due on the
purchase of the vehicle or has elected to pay sales and use taxes measured by
gross charges for which the vehicle is shared.

Existing law authorizes the board of county commissioners of certain
counties in this State to impose a fee on the short-term lease of a passenger
car. (NRS 244A.810, 244A.860) Sections 31.13 and 31.15 of this bill provide
that if the board of county commissioners has imposed such a fee, the board of
county commissioners is required to impose this fee on the sharing of a
passenger car through a peer-to-peer car sharing program.

Sections [3-11] 5-11 of this bill define terms relating to peer-to-peer car
sharing programs.

[Section 12 of this bill requires the Director of the Department to adopt
regulations to carry out the provisions of law relating to peer-to-peer car
sharing programs.]

Section 12 of this bill provides that a peer-to-peer car sharing program
assumes liability for certain damages on behalf of a shared vehicle owner.
Section 12 also requires a peer-to-peer car sharing program to ensure that,
during each car sharing period, the shared vehicle owner and the shared vehicle
driver are insured under a motor vehicle liability insurance policy meeting
certain requirements. If the insurance policy used to satisfy these requirements
has lapsed or does not meet the requirements, the peer-to-peer car sharing
program assumes liability for damages up to the required level of coverage.
Section 15 of this bill authorizes an authorized insurer to exclude from
coverage claims afforded under a shared vehicle owner’s motor vehicle
liability insurance policy.

Sections 14 and 25 of this bill require a peer-to-peer car sharing program to
make certain disclosures to shared vehicle owners and shared vehicle drivers.
Section 16 of this bill requires a peer-to-peer car sharing program to
maintain certain records.

Existing federal law provides that a vehicle owner who rents or leases the
vehicle is not vicariously liable for harm to persons or property that results or
arises out of the use, operation or possession of the vehicle during the period
of the rental or lease under certain circumstances. (49 U.S.C. § 30106)
Section 17 of this bill provides that the provisions of sections 2-29 of this bill
are not be construed to impose liability which is inconsistent with this federal
law.

Section 18 of this bill authorizes an insurer who defends or indemnifies
certain claims to seek recovery from the motor vehicle insurer of the
peer-to-peer car sharing program under certain circumstances.

Section 19 of this bill provides that a peer-to-peer car sharing program has
an insurable interest in the shared vehicle during the car sharing period and
may own and maintain certain types of motor vehicle liability insurance.
Section 26 of this bill prohibits a peer-to-peer car sharing program from entering into a car sharing program agreement with a person who does not possess a valid driver’s license.

Section 27 of this bill establishes liability for the loss of or damage to equipment placed in or on a shared vehicle.

Section 28 of this bill establishes provisions relating to safety recalls on shared vehicles.

Section 29 of this bill prohibits a local governmental entity from imposing additional taxes, fees or licensing requirements on a peer-to-peer car sharing program, shared vehicle owner, shared vehicle driver or shared vehicle, other than those which are applicable, in general, to all businesses.

Existing law prohibits a person from engaging in the activities of a short-term lessor unless such person has obtained a license to do so. (NRS 482.300) Section 31 of this bill provides that a peer-to-peer car sharing program and a vehicle owner who makes a vehicle available through such a program are not engaged in the activities of a short-term lessor. (Section 30 of this bill provides that the sharing of a vehicle through a peer-to-peer car sharing program is not a lease for certain purposes.)

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

Section 1. Title 43 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 29, inclusive, of this act.

Sec. 2. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 11, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 3. “Car sharing delivery period” means the period of time before the car sharing start time during which a shared vehicle is being delivered to the location where the shared vehicle driver will assume control of the shared vehicle.

Sec. 4. “Car sharing period” means the period of time that:

1. Begins:
   a. If there is a car sharing delivery period, at the start of the period; or
   b. If there is no car sharing delivery period, at the car sharing start time; and

2. Ends at the car sharing termination time.

Sec. 5. “Car sharing program agreement” means an agreement entered into between a peer-to-peer car sharing program and a shared vehicle driver or shared vehicle owner which establishes terms and conditions governing the sharing of a vehicle through the peer-to-peer car sharing program.

Sec. 6. “Car sharing start time” means the time:

1. At or after the time the reservation of a shared vehicle is scheduled to begin as documented in the records of a peer-to-peer car sharing program at

   ——
which the shared vehicle becomes subject to the control of the shared vehicle driver; or

2. If the shared vehicle becomes subject to the control of the shared vehicle driver before the time the reservation of a shared vehicle is scheduled to begin as documented in the records of a peer-to-peer car sharing program, the time of the reservation. (Deleted by amendment.)

Sec. 7. “Car sharing termination time” means:

1. The expiration of the agreed upon period of time established for the use of a shared vehicle according to the terms of the car sharing program agreement if the shared vehicle is delivered to the location agreed upon in the car sharing program agreement;

2. The expiration of the agreed upon period of time established for the use of a shared vehicle according to the terms of the car sharing program agreement if the shared vehicle is delivered to a location alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer car sharing program and incorporated into the car sharing program agreement; or

3. When the shared vehicle owner or the authorized designee of the shared vehicle owner takes possession and control of the shared vehicle, whichever occurs first. (Deleted by amendment.)

Sec. 7.5. “Passenger car” has the meaning ascribed to it in NRS 482.087.

Sec. 8. “Peer-to-peer car sharing program” means a platform operated by a business that connects shared vehicle owners with shared vehicle drivers to enable the sharing of vehicles in exchange for money.

Sec. 9. “Shared vehicle” means a passenger car that is shared or available for sharing through a peer-to-peer car sharing program.

Sec. 10. “Shared vehicle driver” means a person who has been authorized to drive a shared vehicle by the shared vehicle owner pursuant to the terms of a car sharing program agreement.

Sec. 11. “Shared vehicle owner” means the registered owner of a shared vehicle or a person who is authorized by the registered owner to make a vehicle available for sharing through a peer-to-peer car sharing program.

Sec. 11.3. 1. Except as otherwise provided in subsection 8, when a shared vehicle is shared through a peer-to-peer car sharing program in this State, the peer-to-peer car sharing program shall charge and collect from the shared vehicle driver:

(a) A governmental services fee of 10 percent of the total amount for which the shared vehicle was shared with the shared vehicle driver, excluding any taxes or other fees imposed by a governmental entity and the items described in subsection 7; and

(b) Any fee required pursuant to NRS 244A.810 or 244A.860, as applicable, the amount of each fee charged pursuant to this subsection must be indicated in the car sharing program agreement.
2. The fees due from a peer-to-peer car sharing program to the Department of Taxation pursuant to subsection 1 are due on the last day of each calendar quarter. On or before the last day of the month following each calendar quarter, the peer-to-peer car sharing program shall:
   (a) File with the Department of Taxation, on a form prescribed by the Department of Taxation, a report indicating the total amount of each of the fees collected by the peer-to-peer car sharing program pursuant to subsection 1 during the immediately preceding calendar quarter; and
   (b) Remit to the Department of Taxation the fees collected by the peer-to-peer car sharing program pursuant to subsection 1 during the immediately preceding calendar quarter.

3. Except as otherwise provided in a contract made pursuant to NRS 244A.820 or 244A.870, the Department of Taxation shall deposit all money received from a peer-to-peer car sharing program pursuant to the provisions of subsection 1 with the State Treasurer for credit to the State General Fund.

4. To ensure compliance with this section, the Department of Taxation may audit the records of a peer-to-peer car sharing program.

5. Except as otherwise provided in this subsection, the provisions of this section do not limit or affect the payment of any taxes or fees imposed pursuant to the provisions of chapter 482 of NRS. A shared vehicle owner is not required to:
   (a) Be licensed pursuant to NRS 482.363 to make a shared vehicle available for sharing through a peer-to-peer car sharing program; or
   (b) Charge and collect the fees required pursuant to subsection 1 or any fee required pursuant to NRS 244A.810, 244A.860 or 482.313 when sharing a shared vehicle through a peer-to-peer car sharing program if the shared vehicle owner is the registered owner of the shared vehicle or a person authorized by the registered owner of the shared vehicle to make the shared vehicle available for sharing through the peer-to-peer car sharing program.

6. The Department of Motor Vehicles shall, upon request, provide to the Department of Taxation any information in its records relating to a peer-to-peer car sharing program that the Department of Taxation considers necessary to collect the fees described in subsection 1.

7. For the purposes of charging and collecting the governmental services fee described in paragraph (a) of subsection 1, the following items must not be included in the total amount for which the shared vehicle was shared:
   (a) The amount of any fee charged and collected pursuant to paragraph (b) of subsection 1;
   (b) The amount of any charge for fuel used to operate the shared vehicle;
   (c) The amount of any fee or charge for the delivery, transportation or other handling of the shared vehicle by an agent of the peer-to-peer vehicle sharing program, not including the shared vehicle driver;
(d) The amount of any fee or charge for insurance, including, without limitation, personal accident insurance, extended coverage or insurance coverage for personal property; and

(e) The amount of any charges assessed against a shared vehicle driver for damages for which the shared vehicle driver is held responsible.

8. The fees required pursuant to subsection 1 do not apply with respect to any shared vehicle made available through a peer-to-peer car sharing program to this State, its unincorporated agencies and instrumentalities or any county, city, district or other political subdivisions of this State.

9. The Executive Director of the Department of Taxation shall:

(a) Adopt such regulations as the Executive Director determines are necessary to carry out the provisions of this section; and

(b) Upon the request of the Director of the Department of Motor Vehicles, provide to the Director of the Department of Motor Vehicles a copy of any record or report described in this section.

Sec. 11.5. 1. A peer-to-peer car sharing program shall not operate in this State unless the operator of the peer-to-peer car sharing program has entered into an agreement with the Department of Taxation whereby the peer-to-peer car sharing program agrees to collect and remit, on behalf of any shared vehicle owner, sales and use taxes measured by the gross charges for the sharing of the vehicle through the peer-to-peer car sharing program if the shared vehicle owner has not, for any reason, paid any sales or use tax due or has elected to collect sales and use taxes measured by the gross charges for the sharing of the vehicle.

2. Before a peer-to-peer car sharing program allows a vehicle to be shared through the peer-to-peer car sharing program, the peer-to-peer car sharing program must first determine whether the shared vehicle owner paid all sales and use taxes due on the purchase of the shared vehicle. The Department of Taxation may prescribe by regulation the method by which a peer-to-peer car sharing program shall determine if the shared vehicle owner paid all sales and use taxes due on the purchase of the shared vehicle.

Sec. 11.7. 1. Each person responsible for maintaining the records of a peer-to-peer car sharing program shall:

(a) Keep such records as may be necessary to determine the amount of the liability of the peer-to-peer car sharing program pursuant to section 11.3 of this act and the agreement entered into pursuant to section 11.5 of this act;

(b) Preserve those records for 4 years or until any litigation or prosecution pursuant to chapter 360 of NRS or audit conducted pursuant to section 11.3 of this act is finally determined, whichever is longer; and

(c) Make the records available for inspection by the Department of Taxation upon demand at reasonable times during regular business hours.

2. The Department of Taxation may by regulation specify the types of records which must be kept to determine the amount of the liability of a
taxpayer pursuant to section 11.3 of this act and the agreement entered into pursuant to section 11.5 of this act.

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

Sec. 12. [The Director shall adopt such regulations as are necessary to carry out the provisions of this chapter.] (Deleted by amendment.)

Sec. 13. [Except as otherwise provided in subsection 2, a peer-to-peer car sharing program assumes any tort liability of a shared vehicle owner arising out of the use or operation of the shared vehicle during the car sharing period up to an amount of:

(a) For bodily injury to or death of one person in any one crash, $25,000;
(b) For bodily injury to or death of two or more persons in any one crash and subject to the limit for one person, $50,000; and
(c) For injury to or destruction of property of others in any one crash, $20,000,
or any amount set forth in the car sharing program agreement which is greater than an amount provided for by this section.

2. The provisions of subsection 1 do not apply to a shared vehicle owners:

(a) Who made an intentional and fraudulent material misrepresentation or omission to the peer-to-peer car sharing program before the car sharing period in which the liability arose; or

(b) Who acts in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the car sharing program agreement.

3. The assumption of liability pursuant to subsection 1 includes, without limitation, liability for bodily injury, property damage, uninsured and underinsured motorist or personal injury protection losses by damaged third parties to the same extent as the insurance required by NRS 485.185 is required to include coverage for such damage or losses.

4. A peer-to-peer car sharing program shall ensure that, during each car sharing period, both the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that includes coverage which is not less than the coverage required by NRS 485.185 and which:

(a) Expressly recognizes that the shared vehicle insured under the policy is made available and used through a peer-to-peer car sharing program; and

(b) Does not prohibit or exclude the use of the shared vehicle by a shared vehicle driver.

5. The insurance policy used to satisfy the requirements of subsection 4 may be a policy maintained by:

(a) The shared vehicle owner;
(b) The shared vehicle driver;
(c) The peer-to-peer car sharing program; or
(d) The shared vehicle owner, shared vehicle driver and peer-to-peer car sharing program.
6. The insurance policy used to satisfy the requirements of subsection 4 provides primary insurance during each car sharing period. If, during the car sharing period, a claim arises in another state with minimum financial responsibility requirements that are higher than the requirements of NRS 485.185, the insurance policy used to satisfy the requirements of subsection 4 must satisfy the difference in minimum coverage amounts, up to the applicable policy limits.

7. The insurer providing the insurance used to satisfy the requirements of subsection 4 shall assume primary liability for a claim when:

   (a) A dispute exists as to who was in control of the shared vehicle at the time of the occurrence out of which liability arose and the peer-to-peer car sharing program does not have available, did not retain or fails to provide the information required by section 16 of this act; or

   (b) A dispute exists as to whether the shared vehicle was returned to an alternatively agreed upon location.

8. If the insurance used to satisfy the requirements of subsection 4 has lapsed or does not provide the coverage required pursuant to subsection 4, the peer-to-peer car sharing program:

   (a) Shall assume liability for damages up to the amounts set forth in subsection 1, which may be satisfied through the peer-to-peer car sharing program’s own insurance policy, beginning with the first dollar of any claim; and

   (b) Is responsible for defending against any such claim, except in the situation where the shared vehicle owner acts in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the car sharing program agreement.

9. Coverage under a motor vehicle liability insurance policy maintained by a peer-to-peer car sharing program must not be dependent on another insurer first denying a claim or require another motor vehicle liability insurance policy to first deny a claim.

10. Nothing in this chapter shall be construed to:

   (a) Limit the liability of a peer-to-peer car sharing program for any act or omission of the peer-to-peer car sharing program that results in injury to any person as a result of the use of a shared vehicle through the peer to peer car sharing program; or

   (b) Limit the ability of a peer-to-peer car sharing program to, by contract, seek indemnification from the shared vehicle owner or shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement.

11. As used in this section, “alternatively agreed upon location” means a location alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer car sharing program for the return of the shared vehicle.

   (Deleted by amendment.)
Sec. 14. At the time when the owner of a motor vehicle registers as a shared vehicle owner and before the shared vehicle owner is permitted to make his or her vehicle available for car sharing through a peer-to-peer car sharing program, the peer-to-peer car sharing program shall notify the shared vehicle owner that if the shared vehicle has a lien against it, the use of the shared vehicle through a peer-to-peer car sharing program, including, without limitation, use without insurance coverage for physical damage, may violate the terms of the contract with the lienholder. (Deleted by amendment.)

Sec. 15. An authorized insurer that writes motor vehicle liability insurance in this State may exclude any and all coverage for and any duty to defend or indemnify for any claim afforded under a shared vehicle owner’s motor vehicle liability insurance policy, including, without limitation:

(a) Liability coverage for bodily injury and property damage;
(b) Personal injury protection coverage;
(c) Uninsured and underinsured motorist coverage;
(d) Medical payments coverage;
(e) Comprehensive physical damage coverage; and
(f) Collision physical damage coverage.

2. Nothing in this section shall be construed to:
   (a) Invalidate or limit an exclusion contained in a motor vehicle liability insurance policy, including, without limitation, any insurance policy in use or approved for use that excludes coverage for motor vehicles made available for rent, sharing or hire or for any business use;
   (b) Invalidate, limit or restrict an insurer’s ability to underwrite an insurance policy or to cancel or decline to renew a policy;
   3. As used in this section, “authorized insurer” has the meaning ascribed to it in NRS 679A.030. (Deleted by amendment.)

Sec. 16. A peer-to-peer car sharing program shall collect and maintain the following records relating to the use of a shared vehicle through the peer-to-peer car sharing program in such format as the Director may prescribe:

(a) The exact car sharing start time and car sharing termination time, plus the exact start and end time of any car sharing delivery period;
(b) The pick up and drop off locations for each car sharing period;
(c) The amount of any fee paid by the shared vehicle driver for each car sharing period;
(d) The amount of any revenue received by the shared vehicle owner for each car sharing period; and
(e) Such other records as the Director may require by regulation.

2. The peer-to-peer car sharing program shall maintain the records required pursuant to subsection 1 for a period of not less than 4 years after the record is created.

3. Upon request, the peer-to-peer car sharing program shall provide copies of the records maintained pursuant to this section and section 26 of this
act to the shared vehicle owner, shared vehicle driver or insurer of the shared vehicle owner or shared vehicle driver to facilitate a claim coverage investigation or the settlement, negotiation or litigation of a claim.

4. Upon request, each record maintained pursuant to this section and section 26 of this act must be made available for inspection by a shared vehicle owner, shared vehicle driver, the insurer of a shared vehicle owner or shared vehicle driver or the Department or its designee at any time during regular business hours, subject to the provisions of any applicable data security or data privacy law.

5. A peer-to-peer car sharing program that keeps outside of this State any books, papers and records maintained pursuant to this section and section 26 of this act shall pay to the Department an amount equal to the allowance provided for state officers and employees generally while traveling outside of the State for each day or fraction thereof during which an employee of the Department is engaged in examining those documents, plus any other actual expenses incurred by the employee while he or she is absent from his or her regular place of employment to examine those documents.

6. The Director shall adopt such regulations as the Director determines are necessary to carry out the provisions of this section. (Deleted by amendment.)

Sec. 17. The provisions of this chapter shall not be construed to impose liability which is inconsistent with the provisions of 49 U.S.C. § 30106. (Deleted by amendment.)

Sec. 18. A motor vehicle insurer that defends or indemnifies a claim arising from the use of a shared vehicle shall have the right to seek recovery against the motor vehicle insurer of the peer-to-peer car sharing program if the claim is:

1. Made against the shared vehicle owner or shared vehicle driver for loss or injury that occurs during the car sharing period; and

2. Excluded under the terms of the motor vehicle liability insurance policy of the motor vehicle insurer who is not the motor vehicle insurer of the peer-to-peer car sharing program. (Deleted by amendment.)

Sec. 19. 1. Notwithstanding any other provision of law, a peer-to-peer car sharing program shall be deemed to have an insurable interest in a shared vehicle during the car sharing period.

2. A peer-to-peer car sharing program may own and maintain as the named insured one or more policies of motor vehicle liability insurance that provide coverage for:

(a) Liabilities assumed by the peer-to-peer car sharing program under a peer-to-peer car sharing program agreement;

(b) Any liability of a shared vehicle owner;

(c) Any liability of a shared vehicle driver; or

(d) Damage or loss to a shared motor vehicle. (Deleted by amendment.)
Sec. 20. 1. A peer-to-peer car sharing program shall not engage in business in this State unless the person who operates the peer-to-peer car sharing program holds a valid license issued by the Department pursuant to this chapter.

2. A person who desires to operate a peer-to-peer car sharing program in this State must:
   (a) Submit to the Department an application for the issuance of a license to operate a peer-to-peer car sharing program in such form and including such information and documentation as the Director may require by regulation.
   (b) Provide evidence of insurance coverage to satisfy any liability that accrues to a peer-to-peer car sharing program for damage that arises from the failure of the peer-to-peer car sharing program to comply with the provisions of this chapter in an amount established by the Director by regulation, which is separate from any insurance coverage a peer-to-peer car sharing program may use to satisfy the liability which may accrue to a peer-to-peer car sharing program pursuant to section 13 of this act or which may be used to satisfy the requirements of subsection 4 of section 13 of this act, or file a bond or make a deposit pursuant to section 24 of this act.
   (c) Pay a fee of $125.

3. Licenses issued pursuant to subsection 2 expire on December 31 of each year. Before December 31 of each year, licensees shall furnish the Department with an application for renewal of the license in such form and including such information and documentation as the Director may require by regulation accompanied by an annual renewal fee of $50. [Deleted by amendment.]

Sec. 21. The Department may refuse to issue or suspend or revoke a license as a peer-to-peer car sharing program upon any of the following grounds:

1. Material misstatement in the application for a license.

2. Willful failure to comply with any provision of this chapter or regulations adopted pursuant thereto. If the Department notifies a peer-to-peer car sharing program that the peer-to-peer car sharing program has violated the provisions of this chapter or the regulations adopted pursuant thereto and the peer-to-peer car sharing program fails to take corrective action within 10 days after having received the notice or continues to violate the provisions of this chapter or the regulations adopted pursuant thereto, this shall be deemed prima facie evidence of willful failure to comply with the provisions of this chapter or the regulations adopted pursuant thereto.

3. Failure or refusal to furnish and keep in force any bond or maintain insurance in an amount established by the Director in regulations adopted pursuant to section 20 of this act to satisfy any liability that accrues to a peer-to-peer car sharing program for damage that arises from the failure of the peer-to-peer car sharing program to comply with the provisions of this chapter.
Sec. 22. 1. An applicant or licensee may, within 30 days after receipt of the notice of denial, suspension or revocation, petition the Director in writing for a hearing.

2. Except as otherwise provided in subsection 3, the Director shall make written findings of fact and conclusions and grant or finally deny the application or revoke the license within 15 days after the hearing unless by interim order the Director extends the time to 30 days after the hearing. If the license has been temporarily suspended, the suspension expires not later than 15 days after the hearing.

3. If the Director finds that the action is necessary in the public interest, upon notice to the licensee, the Director may temporarily suspend or refuse to renew the license issued to a peer-to-peer car sharing program for a period not to exceed 30 days. A hearing must be held, and a final decision rendered, within 30 days after notice of the temporary suspension.

4. The Director may issue subpoenas for the attendance of witnesses and the production of evidence.

Sec. 23. Upon judicial review of the denial or revocation of a license, the court for good cause shown may order a trial de novo.

Sec. 24. 1. In lieu of insurance coverage to satisfy any liability that accrues to a peer-to-peer car sharing program for damage that arises from the failure of the peer-to-peer car sharing program to comply with the provisions of this chapter, a peer-to-peer car sharing program may:

(a) File with the Department a bond of a surety company authorized to transact business in this State in an amount not less than $5,000 conditioned that the peer-to-peer car sharing program will comply with the provisions of this chapter in the operation of the peer-to-peer car sharing program.

(b) Deposit with the Department, under such terms as the Director may prescribe, a like amount of lawful money of the United States or a savings certificate of a bank, credit union, savings and loan association or savings bank situated in Nevada, which must state that the amount is unavailable for withdrawal except upon order of the Director. Interest earned on the amount accrues to the account of the licensee or applicant.

2. The bond must be continuous in form, and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. The bond must provide that a shared vehicle owner or shared vehicle driver injured by the failure of the licensee to provide the disclosure required by section 25 of this act or to otherwise comply with the provisions of this chapter may apply to the Director for compensation from the bond. The Director, for good cause shown and after notice and opportunity for hearing,
may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

4. A deposit made pursuant to paragraph (b) of subsection 1 may be disbursed by the Director, for good cause shown and after notice and an opportunity for hearing, in an amount determined by the Director to compensate a shared vehicle owner or shared vehicle driver for an injury incurred due to the failure of the licensee to provide the disclosure required by section 25 of this act or to otherwise comply with the provisions of this chapter, or released upon receipt of:

(a) A court order requiring the Director to release all or a specified portion of the deposit; or

(b) A statement signed by the licensee requesting the Director to release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

5. When a deposit is made pursuant to paragraph (b) of subsection 1, liability under the deposit is in the amount prescribed by the Department. If the amount of the deposit is reduced or there is an outstanding court judgment for which the licensee is liable under the deposit, the license as a peer-to-peer car sharing program is automatically suspended. The license must be reinstated if the licensee:

(a) Files an additional bond pursuant to subsection 1;

(b) Restores the deposit with the Department to the original amount required under this section; or

(c) Satisfies the outstanding judgment for which the licensee is liable under the deposit.

6. A deposit made pursuant to paragraph (b) of subsection 1 may be refunded:

(a) By order of the Director, 3 years after the date the licensee ceases to be licensed by the Department, if the Director is satisfied that there are no outstanding claims against the deposit; or

(b) By order of court, at any time within 3 years after the date the licensee ceases to be licensed by the Department, upon evidence satisfactory to the court that there are no outstanding claims against the deposit. (Deleted by amendment.)

Sec. 25. Each car sharing program agreement entered into between a peer-to-peer car sharing program and a shared vehicle driver or shared vehicle owner shall disclose:

1. Any right of the peer-to-peer car sharing program to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement.

2. That a motor vehicle liability insurance policy issued to the shared vehicle owner for the shared vehicle or to the shared vehicle driver does not
provide a defense or indemnification for any claim asserted by the peer-to-peer car sharing program.

3. That the insurance coverage of the peer-to-peer car sharing program on the shared vehicle owner and the shared vehicle driver is in effect only during each car sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the car sharing termination time, the shared vehicle driver and shared vehicle owner may not have insurance coverage.

4. The daily rate, fees and, if applicable, any insurance or protection package costs that are charged to the shared vehicle owner or the shared vehicle driver.

5. That the motor vehicle liability insurance of the shared vehicle owner may not provide coverage for a shared vehicle.

6. An emergency telephone number to personnel capable of fielding roadside assistance and other customer service inquiries.

7. If there are conditions under which a shared vehicle driver must maintain a personal motor vehicle liability insurance policy with certain applicable coverage limits on a primary basis in order to book a shared motor vehicle. (Deleted by amendment.)

Sec. 26. 1. A peer-to-peer car sharing program may not enter into a car sharing program agreement with a person to be a shared vehicle driver unless the person:

(a) Possesses a valid driver’s license issued by the Department that authorizes the person to operate vehicles of the class of the shared vehicle;

(b) Is exempt from the requirement to obtain a Nevada driver’s license pursuant to subsection 2 of NRS 483.240 and possesses a valid driver’s license issued to the person in his or her home state or country that authorizes the person to operate vehicles of the class of the shared vehicle in that home state or country.

2. A peer-to-peer car sharing program shall keep a record of:

(a) The name and address of each shared vehicle driver;

(b) The number of the driver’s license of each shared vehicle driver and each other person, if any, who will operate the shared vehicle; and

(c) The place of issuance of each driver’s license described in paragraph (b).

Sec. 27. A peer-to-peer car sharing program shall have sole responsibility for any equipment, such as a GPS system or other special equipment, that is put in or on the shared vehicle to monitor or facilitate the car sharing transaction and shall indemnify and hold harmless the shared vehicle owner for any damage to or theft of such equipment during the sharing period not caused by the shared vehicle owner. A peer-to-peer car sharing program may enter into an agreement with a shared vehicle driver wherein the shared vehicle driver agrees to indemnify the peer-to-peer car sharing program for any loss or damage to such equipment that occurs during the car sharing period. (Deleted by amendment.)
Sec. 28.  [1—] At the time when a motor vehicle owner registers as a shared vehicle owner through a peer-to-peer car sharing program and before being permitted to make a shared vehicle available for car sharing through the peer-to-peer car sharing program, the peer-to-peer car sharing program shall:

(a) Verify that the shared vehicle is not subject to any safety recalls on the vehicle for which the repairs have not been made; and

(b) Notify the shared vehicle owner of the requirements under subsections 2, 3, and 4.

2. If a shared vehicle owner has received an actual notice of a safety recall on the vehicle, the shared vehicle owner may not make the vehicle available as a shared vehicle on a peer-to-peer car sharing program until the safety recall repair has been made.

3. If a shared vehicle owner receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is made available through a peer-to-peer car sharing program, the shared vehicle owner shall remove the shared vehicle from being made available through the peer-to-peer car sharing program as soon as possible after receiving the notice of the safety recall and until the safety recall repair has been made.

4. If a shared vehicle owner receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is in the possession of a shared vehicle driver, the shared vehicle owner shall notify the peer-to-peer car sharing program as soon as possible after receiving the notice of the safety recall so that the shared vehicle owner may address the safety recall repair.

(Deleted by amendment.)

Sec. 29.  [1—] Except as otherwise provided in subsection 2, a local governmental entity shall not:

(a) Impose any tax or fee on:

(1) Any peer-to-peer car sharing company operating within the scope of a valid license issued pursuant to section 20 of this act;

(2) Any shared vehicle driver;

(3) Any shared vehicle owner;

(4) Any shared vehicle;

(b) Require:

(1) A peer-to-peer car sharing program operating within the scope of a valid license issued pursuant to section 20 of this act to obtain from the local government any certificate, license or permit to operate as a peer-to-peer car sharing company; or

(2) A shared vehicle owner who makes a shared vehicle available through a peer-to-peer car sharing program to obtain from the local government any certificate, license or permit to make the shared vehicle available through a peer-to-peer car sharing program.

(c) Impose any other requirement on a peer-to-peer car sharing program, shared vehicle owner, or shared vehicle driver which is not of general
applicability to all similarly situated persons or entities within the jurisdiction of the local government.

2. Nothing in this section shall be construed to:

(a) Prohibit a local government from requiring a peer-to-peer car sharing program to obtain from the local government a business license or to pay any business license fee in the same manner that is generally applicable to any other business that operates within the jurisdiction of the local government.

(b) Prohibit an airport or its governing body from requiring a peer-to-peer car sharing program to:

1. Obtain a permit or certification to operate at the airport; or
2. Comply with any other requirement to operate at the airport.

(c) Exempt a shared vehicle from any tax imposed pursuant to NRS 354.705, 371.043 or 371.045.

3. Nothing in this section shall be construed to exempt a peer-to-peer car sharing program from the requirement to obtain a state business license pursuant to chapter 76 of NRS.

Sec. 30. NRS 482.053 is hereby amended to read as follows:

482.053 For the purposes of regulation under this chapter and of imposing tort liability under NRS 41.440, and for no other purpose:

1. “Lease” means a contract by which the lienholder or owner of a vehicle transfers to another person, for compensation, the right to use such vehicle, not including the sharing of a vehicle through a peer-to-peer car sharing program pursuant to sections 2 to 29, inclusive, of this act.

2. “Long-term lessee” means a person who has leased a vehicle from another person for a fixed period of more than 31 days.

3. “Long-term lessor” means a person who has leased a vehicle to another person for a fixed period of more than 31 days.

4. “Short-term lessee” means a person who has leased a vehicle from another person for a period of 31 days or less, or by the day, or by the trip.

5. “Short-term lessor” means a person who has leased a vehicle to another person for a period of 31 days or less, or by the day, or by the trip.

Sec. 31. NRS 482.300 is hereby amended to read as follows:

482.300 Except as otherwise provided in section 11.3 of this act, it is unlawful for any person to engage in the activities of a short-term lessor unless such person has been licensed pursuant to NRS 482.363.

2. A peer-to-peer car sharing program licensed pursuant to section 20 of this act and an owner of a vehicle who makes the vehicle available for use through such a program who operate pursuant to the provisions of sections 2 to 29, inclusive, of this act shall not be deemed to be engaged in the activities of a short-term lessor.

Sec. 31.1. NRS 482.313 is hereby amended to read as follows:

482.313 Except as otherwise provided in subsection 8 and section 11.3 of this act, upon the lease of a passenger car by a short-term lessor
in this State, the short-term lessor shall charge and collect from the short-term lessee:

(a) A governmental services fee of 10 percent of the total amount for which the passenger car was leased, excluding any taxes or other fees imposed by a governmental entity and the items described in subsection 7; and

(b) Any fee required pursuant to NRS 244A.810 or 244A.860.

The amount of each fee charged pursuant to this subsection must be indicated in the lease agreement.

2. The fees due from a short-term lessor to the Department of Taxation pursuant to subsection 1 are due on the last day of each calendar quarter. On or before the last day of the month following each calendar quarter, the short-term lessor shall:

(a) File with the Department of Taxation, on a form prescribed by the Department of Taxation, a report indicating the total amount of each of the fees collected by the short-term lessor pursuant to subsection 1 during the immediately preceding calendar quarter; and

(b) Remit to the Department of Taxation the fees collected by the short-term lessor pursuant to subsection 1 during the immediately preceding calendar quarter.

3. Except as otherwise provided in a contract made pursuant to NRS 244A.820 or 244A.870, the Department of Taxation shall deposit all money received from short-term lessors pursuant to the provisions of subsection 1 with the State Treasurer for credit to the State General Fund.

4. To ensure compliance with this section, the Department of Taxation may audit the records of a short-term lessor.

5. The provisions of this section do not limit or affect the payment of any taxes or fees imposed pursuant to the provisions of this chapter.

6. The Department of Motor Vehicles shall, upon request, provide to the Department of Taxation any information in its records relating to a short-term lessor that the Department of Taxation considers necessary to collect the fees described in subsection 1.

7. For the purposes of charging and collecting the governmental services fee described in paragraph (a) of subsection 1, the following items must not be included in the total amount for which the passenger car was leased:

(a) The amount of any fee charged and collected pursuant to paragraph (b) of subsection 1;

(b) The amount of any charge for fuel used to operate the passenger car;

(c) The amount of any fee or charge for the delivery, transportation or other handling of the passenger car;

(d) The amount of any fee or charge for insurance, including, without limitation, personal accident insurance, extended coverage or insurance coverage for personal property; and

(e) The amount of any charges assessed against a short-term lessee for damages for which the short-term lessee is held responsible.
8. The fee required pursuant to subsection 1 does not apply with respect to any passenger car leased by or on behalf of this State, its unincorporated agencies and instrumentalities or any county, city, district or other political subdivision of this State.

9. The Executive Director of the Department of Taxation shall:
   (a) Adopt such regulations as the Executive Director determines are necessary to carry out the provisions of this section; and
   (b) Upon the request of the Director of the Department of Motor Vehicles, provide to the Director of the Department of Motor Vehicles a copy of any record or report described in this section.

Sec. 31.13. NRS 244A.810 is hereby amended to read as follows:

244A.810 1. Except as otherwise provided in subsection 2, the board of county commissioners of a county whose population is 100,000 or more but less than 700,000 may by ordinance impose a fee upon the lease of a passenger car by a short-term lessor in the county in the amount of not more than 2 percent of the total amount for which the passenger car was leased, excluding any taxes or other fees imposed by a governmental entity. If the board of county commissioners has imposed a fee pursuant to this section, the board of county commissioners shall by ordinance require such a fee to be charged and collected, in the manner required by section 11.3 of this act, when a shared vehicle is shared through a peer-to-peer car sharing program in the county.

2. The fee imposed pursuant to subsection 1 must not apply to replacement vehicles. As used in this subsection, “replacement vehicle” means a vehicle that is:
   (a) Rented temporarily by or on behalf of a person or leased to a person by a facility that repairs motor vehicles or a motor vehicle dealer; and
   (b) Used by the person in place of a motor vehicle owned by the person that is unavailable for use because of mechanical breakdown, repair, service, damage or loss as defined in the owner’s policy of liability insurance for the motor vehicle.

3. Any proceeds of a fee imposed pursuant to this section which are received by a county must be used solely to pay the costs to acquire, lease, improve, equip, operate and maintain within the county a minor league baseball stadium project, or to pay the principal of, interest on or other payments due with respect to bonds issued to pay such costs, including bonds issued to refund bonds issued to pay such costs, or any combination thereof.

4. The board of county commissioners shall not repeal or amend or otherwise directly or indirectly modify an ordinance imposing a fee pursuant to subsection 1 in such a manner as to impair any outstanding bonds issued by or other obligations incurred by the county until all obligations for which revenue from the ordinance have been pledged or otherwise made payable from such revenue have been discharged in full or provision for full payment and redemption has been made.
5. As used in this section, the words and terms defined in NRS 482.053 and 482.087 have the meanings ascribed to them in those sections.

Sec. 31.15. NRS 244A.860 is hereby amended to read as follows:

244A.860 1. Except as otherwise provided in subsection 2, the board of county commissioners of a county whose population is 700,000 or more may by ordinance impose a fee upon the lease of a passenger car by a short-term lessor in the county in the amount of not more than 2 percent of the total amount for which the passenger car was leased, excluding any taxes or other fees imposed by a governmental entity. If the board of county commissioners has imposed a fee pursuant to this section, the board of county commissioners shall by ordinance require such a fee to be charged and collected, in the manner required by section 11.3 of this act, when a shared vehicle is shared through a peer-to-peer car sharing program in the county.

2. The fee imposed pursuant to subsection 1 must not apply to replacement vehicles. As used in this subsection, “replacement vehicle” means a vehicle that is:

   (a) Rented temporarily by or on behalf of a person or leased to a person by a facility that repairs motor vehicles or a motor vehicle dealer; and

   (b) Used by the person in place of a motor vehicle owned by the person that is unavailable for use because of mechanical breakdown, repair, service, damage or loss as defined in the owner’s policy of liability insurance for the motor vehicle.

3. After reimbursement of the Department pursuant to paragraph (a) of subsection 1 of NRS 244A.870 for its expense in collecting and administering a fee imposed pursuant to this section, the remaining proceeds of the fee which are received by a county must be used to pay the costs to acquire, improve, equip, operate and maintain within the county a performing arts center, or to pay the principal of, interest on or other payments due with respect to bonds issued to pay those costs, including bonds issued to refund bonds issued to pay those costs, or any combination thereof.

4. The board of county commissioners of a county that imposes the fee authorized by subsection 1 may enter into a cooperative agreement with another governmental entity in which the other governmental entity agrees to receive the proceeds of the fee from the county if the cooperative agreement includes a provision that requires the other governmental entity to assume all responsibility for the operation of the performing arts center and to use the proceeds of the fee it receives from the county to pay the costs to acquire, improve, equip, operate and maintain within the county a performing arts center, and to pay the principal of, interest on or other payments due with respect to bonds issued to pay those costs, including bonds issued to refund bonds issued to pay those costs, or any combination thereof. A governmental entity that enters into a cooperative agreement with the board of county commissioners pursuant to this subsection may delegate to a nonprofit organization one or more of the responsibilities that the governmental entity
assumed pursuant to the cooperative agreement, including, without limitation, the acquisition, design, construction, improvement, equipment, operation and maintenance of the center.

5. The board of county commissioners shall not repeal or amend or otherwise directly or indirectly modify an ordinance imposing a fee pursuant to subsection 1 in such a manner as to impair any outstanding bonds issued by or other obligations incurred by the county until all obligations for which revenue from the ordinance have been pledged or otherwise made payable from such revenue have been discharged in full or provision for full payment and redemption has been made.

6. A performing arts center to be acquired, improved, equipped, operated and maintained pursuant to this section may, regardless of the estimated cost of the center, be designed and constructed pursuant to a contract with a design-build team in accordance with NRS 338.1711 to 338.1727, inclusive.

7. As used in this section, the words and terms defined in NRS 482.053 and 482.087 have the meanings ascribed to them in those sections.

Sec. 31.2. NRS 360.236 is hereby amended to read as follows:

360.236  Notwithstanding any specific statute to the contrary, if the Department determines that any taxpayer or other person has overpaid any tax or fee administered by the Department pursuant to this title or NRS 444A.090 or 482.313, or section 11.3 of this act the amount of the overpayment must be credited against any other such tax or fee then due from the taxpayer or other person before any portion of the overpayment may be refunded.

Sec. 31.25. NRS 360.291 is hereby amended to read as follows:

360.291  1. The Legislature hereby declares that each taxpayer has the right:

(a) To be treated by officers and employees of the Department with courtesy, fairness, uniformity, consistency and common sense.

(b) To a prompt response from the Department to each communication from the taxpayer.

(c) To provide the minimum documentation and other information as may reasonably be required by the Department to carry out its duties.

(d) To written explanations of common errors, oversights and violations that taxpayers experience and instructions on how to avoid such problems.

(e) To be notified, in writing, by the Department whenever its officer, employee or agent determines that the taxpayer is entitled to an exemption or has been taxed or assessed more than is required by law.

(f) To written instructions indicating how the taxpayer may petition for:

(1) An adjustment of an assessment;

(2) A refund or credit for overpayment of taxes, interest or penalties; or

(3) A reduction in or the release of a bond or other form of security required to be furnished pursuant to the provisions of this title that are administered by the Department.
(g) Except as otherwise provided in NRS 360.236 and 361.485, to recover an overpayment of taxes promptly upon the final determination of such an overpayment.
(h) To obtain specific advice from the Department concerning taxes imposed by the State.
(i) In any meeting with the Department, including an audit, conference, interview or hearing:
   (1) To an explanation by an officer, agent or employee of the Department that describes the procedures to be followed and the taxpayer’s rights thereunder;
   (2) To be represented by himself or herself or anyone who is otherwise authorized by law to represent the taxpayer before the Department;
   (3) To make an audio recording using the taxpayer’s own equipment and at the taxpayer’s own expense; and
   (4) To receive a copy of any document or audio recording made by or in the possession of the Department relating to the determination or collection of any tax for which the taxpayer is assessed, upon payment of the actual cost to the Department of making the copy.
(j) To a full explanation of the Department’s authority to assess a tax or to collect delinquent taxes, including the procedures and notices for review and appeal that are required for the protection of the taxpayer. An explanation which meets the requirements of this section must also be included with each notice to a taxpayer that an audit will be conducted by the Department.
(k) To the immediate release of any lien which the Department has placed on real or personal property for the nonpayment of any tax when:
   (1) The tax is paid;
   (2) The period of limitation for collecting the tax expires;
   (3) The lien is the result of an error by the Department;
   (4) The Department determines that the taxes, interest and penalties are secured sufficiently by a lien on other property;
   (5) The release or subordination of the lien will not jeopardize the collection of the taxes, interest and penalties;
   (6) The release of the lien will facilitate the collection of the taxes, interest and penalties; or
   (7) The Department determines that the lien is creating an economic hardship.
(l) To the release or reduction of a bond or other form of security required to be furnished pursuant to the provisions of this title by the Department in accordance with applicable statutes and regulations.
(m) To be free from investigation and surveillance by an officer, agent or employee of the Department for any purpose that is not directly related to the administration of the taxes administered by the Department.
(n) To be free from harassment and intimidation by an officer, agent or employee of the Department for any reason.
(o) To have statutes imposing taxes and any regulations adopted pursuant thereto construed in favor of the taxpayer if those statutes or regulations are of doubtful validity or effect, unless there is a specific statutory provision that is applicable.

2. The provisions of this title and title 57 of NRS and NRS 244A.820, 244A.870, 482.313 and 482.315, and section 11.3 of this act governing the administration and collection of taxes by the Department must not be construed in such a manner as to interfere or conflict with the provisions of this section or any applicable regulations.

3. The provisions of this section apply to any tax administered, regulated and collected by the Department pursuant to the provisions of this title and title 57 of NRS and NRS 244A.820, 244A.870, 482.313 and 482.315, and section 11.3 of this act and any regulations adopted by the Department relating thereto.

Sec. 31.3. NRS 360.2937 is hereby amended to read as follows:

360.2937 1. Except as otherwise provided in this section, NRS 360.320 or any other specific statute, and notwithstanding the provisions of NRS 360.2935, interest must be paid upon an overpayment of any tax provided for in chapter 362, 363A, 363B, 363C, 369, 370, 372, 372B, 374, 377, 377A, 377C or 377D of NRS, any of the taxes provided for in NRS 372A.290, any fee provided for in NRS 444A.090 or 482.313, or section 11.3 of this act, or any assessment provided for in NRS 585.497, at the rate of 0.25 percent per month from the last day of the calendar month following the period for which the overpayment was made.

2. No refund or credit may be made of any interest imposed on the person making the overpayment with respect to the amount being refunded or credited.

3. The interest must be paid:
   (a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if the person has not already filed a claim, is notified by the Department that a claim may be filed or the date upon which the claim is certified to the State Board of Examiners, whichever is earlier.
   (b) In the case of a credit, to the same date as that to which interest is computed on the tax or the amount against which the credit is applied.

Sec. 31.35. NRS 360.297 is hereby amended to read as follows:

360.297 1. A responsible person who willfully fails to collect or pay to the Department any tax or fee required to be paid to the Department pursuant to this title, NRS 444A.090 or 482.313, or chapter 680B of NRS, or section 11.3 of this act, or who attempts to evade the payment of any such tax or fee, is jointly and severally liable with any other person who is required to pay such a tax or fee for the tax or fee owed plus interest and all applicable penalties. The responsible person shall pay the tax or fee upon notice from the Department that it is due.

2. As used in this section, “responsible person” includes:
(a) An officer or employee of a corporation; and
(b) A member or employee of a partnership or limited-liability company,
whose job or duty it is to collect, account for or pay to the Department any
tax or fee required to be paid to the Department pursuant to this title, NRS 444A.090 or 482.313, or chapter 680B of NRS, or section 11.3 of this act.

Sec. 31.4. NRS 360.300 is hereby amended to read as follows:

360.300 1. If a person fails to file a return or the Department is not satisfied with the return or returns of any tax, contribution or premium or amount of tax, contribution or premium required to be paid to the State by any person, in accordance with the applicable provisions of this chapter, chapter 360B, 362, 363A, 363B, 363C, 369, 370, 372, 372A, 372B, 374, 377, 377A, 377C, 377D or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS, or section 11.3 of this act, as administered or audited by the Department, it may compute and determine the amount required to be paid upon the basis of:
(a) The facts contained in the return;
(b) Any information within its possession or that may come into its possession; or
(c) Reasonable estimates of the amount.
2. One or more deficiency determinations may be made with respect to the amount due for one or for more than one period.
3. In making its determination of the amount required to be paid, the Department shall impose interest on the amount of tax determined to be due, calculated at the rate and in the manner set forth in NRS 360.417, unless a different rate of interest is specifically provided by statute.
4. The Department shall impose a penalty of 10 percent in addition to the amount of a determination that is made in the case of the failure of a person to file a return with the Department.
5. When a business is discontinued, a determination may be made at any time thereafter within the time prescribed in NRS 360.355 as to liability arising out of that business, irrespective of whether the determination is issued before the due date of the liability.

Sec. 31.45. NRS 360.412 is hereby amended to read as follows:

360.412 If the Department believes that the collection of any amount of sales or use tax, business tax or other excise due pursuant to this title, NRS 482.313 or chapter 585 of NRS, or section 11.3 of this act, will be jeopardized by delay, it shall make a determination of the amount required to be collected and serve notice of the determination upon the person against whom it is made.

Sec. 31.5. NRS 360.417 is hereby amended to read as follows:

360.417 Except as otherwise provided in NRS 360.232 and 360.320, and unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax provided for in chapter 362, 363A, 363B, 363C, 369, 370, 372, 372B, 374, 377, 377A, 377C, 377D, 444A or 585 of
and any person or governmental entity that fails to pay any fee provided for in NRS 360.787, to the State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee which is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of 0.75 percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date of payment. The amount of any penalty imposed must be based on a graduated schedule adopted by the Nevada Tax Commission which takes into consideration the length of time the tax or fee remained unpaid.

Sec. 31.55. NRS 360.419 is hereby amended to read as follows:

360.419 1. If the Executive Director or a designated hearing officer finds that the failure of a person to make a timely return or payment of any tax or fee required to be paid to the Department pursuant to this title or NRS 482.313 or section 11.3 of this act is the result of circumstances beyond his or her control and occurred despite the exercise of ordinary care and without intent, the Department may relieve the person of all or part of any interest or penalty, or both.

2. A person seeking relief must file with the Department a statement under oath setting forth the facts upon which the person bases his or her claim.

3. The Department shall disclose, upon the request of any person:
   (a) The name of the person to whom relief was granted; and
   (b) The amount of the relief.

4. The Executive Director or a designated hearing officer shall act upon the request of a taxpayer seeking relief pursuant to NRS 361.4835 which is deferred by a county treasurer or county assessor.

Sec. 31.6. NRS 360.510 is hereby amended to read as follows:

360.510 1. If any person is delinquent in the payment of any tax or fee administered by the Department or if a determination has been made against the person which remains unpaid, the Department may:
   (a) Not later than 3 years after the payment became delinquent or the determination became final; or
   (b) Not later than 6 years after the last recording of an abstract of judgment or of a certificate constituting a lien for tax owed,

   give a notice of the delinquency and a demand to transmit personally or by registered or certified mail to any person, including, without limitation, any officer or department of this State or any political subdivision or agency of this State, who has in his or her possession or under his or her control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person. In the case of any state officer, department or agency, the notice must be given to the
officer, department or agency before the Department presents the claim of the delinquent taxpayer to the State Controller.

2. A state officer, department or agency which receives such a notice may satisfy any debt owed to it by that person before it honors the notice of the Department.

3. After receiving the demand to transmit, the person notified by the demand may not transfer or otherwise dispose of the credits, other personal property, or debts in his or her possession or under his or her control at the time the person received the notice until the Department consents to a transfer or other disposition.

4. Every person notified by a demand to transmit shall, within 10 days after receipt of the demand to transmit, inform the Department of and transmit to the Department all such credits, other personal property or debts in his or her possession, under his or her control or owing by that person within the time and in the manner requested by the Department. Except as otherwise provided in subsection 5, no further notice is required to be served to that person.

5. If the property of the delinquent taxpayer consists of a series of payments owed to him or her, the person who owes or controls the payments shall transmit the payments to the Department until otherwise notified by the Department. If the debt of the delinquent taxpayer is not paid within 1 year after the Department issued the original demand to transmit, the Department shall issue another demand to transmit to the person responsible for making the payments informing him or her to continue to transmit payments to the Department or that his or her duty to transmit the payments to the Department has ceased.

6. If the notice of the delinquency seeks to prevent the transfer or other disposition of a deposit in a bank or credit union or other credits or personal property in the possession or under the control of a bank, credit union or other depository institution, the notice must be delivered or mailed to any branch or office of the bank, credit union or other depository institution at which the deposit is carried or at which the credits or personal property is held.

7. If any person notified by the notice of the delinquency makes any transfer or other disposition of the property or debts required to be withheld or transmitted, to the extent of the value of the property or the amount of the debts thus transferred or paid, that person is liable to the State for any indebtedness due pursuant to this chapter, chapter 360B, 362, 363A, 363B, 363C, 369, 370, 372, 372A, 372B, 374, 377, 377A, 377C, 377D or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS or section 11.3 of this act from the person with respect to whose obligation the notice was given if solely by reason of the transfer or other disposition the State is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

Sec. 31.65. NRS 360.530 is hereby amended to read as follows:
360.530 1. At any time within 3 years after any person has become delinquent in the payment of any amount of sales or use tax or other excise due pursuant to this title, NRS 482.313 or chapter 585 of NRS, or section 11.3 of this act, the Department may seize any property, real or personal, of the person and sell the property, or a sufficient part of it, at public auction to pay the amount due, together with any interest or penalties imposed for the delinquency and any costs incurred on account of the seizure and sale.

2. Any seizure made to collect a tax due may be only of the property of the person not exempt from execution under the provisions of law.

Sec. 32. Notwithstanding the provisions of NRS 218D.430 and 218D.435, a committee, other than the Assembly Standing Committee on Ways and Means and the Senate Standing Committee on Finance, may vote on this act before the expiration of the period prescribed for the return of a fiscal note in NRS 218D.475. This section applies retroactively from and after March 22, 2021.

Sec. 33. 1. This section and section 32 of this act become effective upon passage and approval.

2. Sections 1 to 31, inclusive, of this act become effective:
   (a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and
   (b) On October 1, 2021, for all other purposes.

   Senator Neal moved the adoption of the amendment.
   Remarks by Senator Neal.
   (To be entered at a later date.)

Amendment adopted.

Senator Brooks moved that the bill be re-referred to the Committee on Finance, upon return from reprint.
Motion carried.
Bill ordered reprinted, engrossed and to the Committee on Finance.

Senate Bill No. 391.
Bill read third time.
Remarks by Senators Ratti and Settelmeyer.

SENATOR RATTI:
(To be entered at a later date.)

SENATOR SETTELMEYER:
(To be entered at a later date.)

SENATOR RATTI:
(To be entered at a later date.)

Roll call on Senate Bill No. 391:
YEAS—21.
NAYS—None.
Senate Bill No. 391 having received a two-thirds majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 397.

Bill read third time.

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

Amendment No. 285.

SUMMARY—Revises provisions relating to certain persons who remain in foster care beyond the age of 18 years. (BDR 38-502)

AN ACT relating to protection of children; requiring the Division of Child and Family Services of the Department of Health and Human Services to establish the Extended Young Adult Support Services Program to provide extended youth support services to certain persons who remain in foster care beyond the age of 18 and 21 years of age; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes a child whom a court places with a person or entity other than a parent and who reaches 18 years of age to request the court to retain jurisdiction over the child until the child reaches the age of 21 years. If a court retains jurisdiction over a child in such circumstances, the child is required to enter into an agreement with the agency which provides child welfare services. Such an agreement is required to provide that the child is entitled to: (1) continue receiving services from the agency which provides child welfare services; and (2) receive monetary payments directly or to have such payments provided to another entity in an amount not to exceed the rate of payment for foster care. (NRS 432B.594) Existing law additionally requires the agency which provides child welfare services to develop a written plan to assist the child in transitioning into independent living. (NRS 432B.595) The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 allows states to receive federal Title IV-E reimbursement for costs associated with providing support services for persons to remain in foster care up to age 21. (Pub. L. No. 110-351) [This bill authorizes an agency which provides child welfare services to establish a program to provide extended foster care services to such a child pursuant to that federal law. This bill also provides for reporting and the adoption of regulations relating to such a program.]

Sections 23, 27 and 30 of this bill revise terminology so that a person who is between 18 and 21 years of age whose plan for permanent placement on his or her 18th birthday was a permanent living arrangement other than reunification with his or her parents is referred to as a young adult rather than a child. Section 24 of this bill provides that a young adult remains under the jurisdiction of the court until he or she reaches 21 years of age, but has the same ability to make decisions as an adult who is not subject to the jurisdiction
of the court. Section 25 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to establish the Extended Young Adult Support Services Program to provide extended youth support services to young adults who would have been eligible previously to receive services upon electing to remain under the jurisdiction of the court. Section 25 also provides for reporting and the adoption of regulations relating to such a program. Section 22 of this bill defines the term “Program” to refer to the Program, and section 28 of this bill provides that a person or governmental organization that provides services to a participant in the Program is not the custodian of that participant.

Existing law requires a court to refer a child who is 17 years of age and in the custody of an agency which provides welfare services to an attorney upon determining that the child is not likely to be returned to the custody of his or her parent before reaching the age of 18 years. (NRS 432B.592) Section 31 of this bill requires such an attorney to counsel the child concerning the legal consequences of remaining under the jurisdiction of the court, as required by section 24. Section 31 also requires the attorney to counsel the child concerning the legal consequences of participating in the Program and assist the child in deciding whether to participate. Section 32 of this bill requires the agency which provides child welfare services to provide information concerning the Program to such a child and determine whether the child intends to request to participate in the Program at least 120 days before the child reaches 18 years of age. Section 32 authorizes a young adult to decide to participate in the Program any time before his or her 21st birthday, notwithstanding any previous decision not to participate or to terminate participation.

Section 33 of this bill requires a participant in the Program to: (1) enter into a written agreement with the agency which provides child welfare services; and (2) be employed or enrolled in certain educational programs or programs to promote employment, if he or she is capable of doing so. Section 34 of this bill requires the agency which provides child welfare services to develop a written extended youth support services plan to assist a participant in the Program in transitioning to self-sufficiency, and section 33 requires the participant to make a good faith effort to achieve the goals set forth in the plan. Section 26 of this bill requires a court that has jurisdiction over a participant to hold an annual hearing to: (1) review the plan developed for the participant; and (2) determine whether the agency which provides child welfare services has made reasonable efforts to assist the participant in meeting the goals prescribed by the plan. Section 33 also sets forth the conditions under which participation in the Program may be terminated. Section 33 additionally provides that a participant in the Program is entitled to continue to: (1) receive services from the agency which provides child welfare services; and (2) receive monetary payments from that agency or have those payments provided to another entity. Section 33 provides that those monetary payments
must be in an amount that is sufficient to assist the young adult to achieve self-
sufficiency but does not exceed the rate of payment for foster care. Section 33
authorizes an agency which provides child welfare services or the attorney
assigned to the case to request a hearing before the court to address any issue
with a participant. Section 34 prescribes certain additional duties of an agency
which provides child welfare services with respect to a participant in the
Program. Sections 1-19 of this bill make various changes so that the provisions
of Nevada Revised Statutes relating to a child who is in foster care are
consistent and apply to a person who remains in foster care while participating
in the Program in the same manner as a child in foster care who is less than
18 years of age.

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

Section 1. Chapter 424 of NRS is hereby amended by adding thereto a
new section to read as follows:

“Child” means a person who is less than 18 years of age or who participates
in the Extended Young Adult Support Services Program established pursuant
to section 25 of this act.

Sec. 2. NRS 424.010 is hereby amended to read as follows:
424.010  As used in this chapter, unless the context otherwise requires, the
words and terms defined in NRS 424.011 to 424.018, inclusive, and section 1
of this act have the meanings ascribed to them in those sections.

Sec. 3. NRS 424.013 is hereby amended to read as follows:
424.013  “Family foster home” means a family home in which one to
six children who are under 18 years of age or who remain under the
jurisdiction of a court pursuant to NRS 432B.594 and who are not related
within the first degree of consanguinity or affinity to the person or persons
maintaining the home are received, cared for and maintained, for
compensation or otherwise, including the provision of free care. The term
includes a family home in which such a child is received, cared for and
maintained pending completion of proceedings for the adoption of the child by
the person or persons maintaining the home.

Sec. 4. NRS 424.015 is hereby amended to read as follows:
424.015  “Group foster home” means a foster home which provides full-
time care and services for 7 to 15 children who are:
1. Under 18 years of age or who remain under the jurisdiction of a court
pursuant to NRS 432B.594;
2. Not related within the first degree of consanguinity or affinity to any
natural person maintaining or operating the home; and
3. Received, cared for and maintained for compensation or otherwise,
including the provision of free care.

Sec. 5. NRS 424.0153 is hereby amended to read as follows:
424.0153  “Independent living foster home” means a foster home which
provides assistance with the transition to independent living for children who
have entered into an agreement to transition to independent living and for children who:

1. Are at least 16 years of age; [but less than 18 years of age or who remain under the jurisdiction of a court pursuant to NRS 432B.594;]

2. Are not related within the first degree of consanguinity or affinity to any natural person maintaining or operating the home; and

3. Are received, cared for and maintained for compensation or otherwise, including the provision of free care.

Sec. 6. NRS 424.018 is hereby amended to read as follows:

424.018 "Specialized foster home" means a foster home which provides full-time care and services for one to six children who:

1. Require special care for physical, mental or emotional issues;

2. [Are under 18 years of age or who remain under the jurisdiction of a court pursuant to NRS 432B.594;]

3. Are not related within the first degree of consanguinity or affinity to any natural person maintaining or operating the home; and

[4. ] 3. Are received, cared for and maintained for compensation or otherwise, including the provision of free care.

Sec. 7. NRS 424.031 is hereby amended to read as follows:

424.031 1. The licensing authority or a person or entity designated by the licensing authority shall obtain from appropriate law enforcement agencies information on the background and personal history of each applicant for a license to conduct a foster home, person who is licensed to conduct a foster home, employee of that applicant or licensee, and resident of a foster home who is 18 years of age or older, other than a [resident who remains under the jurisdiction of a court participant in the Extended Young Adult Support Services Program established pursuant to NRS 432B.594; section 25 of this act, to determine whether the person investigated has been arrested for, has charges pending for or has been convicted of:

(a) Murder, voluntary manslaughter or mayhem;

(b) Any other felony involving the use or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon;

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

(d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime or a felony relating to prostitution;

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

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

(g) Abuse, neglect, exploitation, isolation or abandonment of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;
(h) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years;

(i) Any offense relating to pornography involving minors, including, without limitation, a violation of any provision of NRS 200.700 to 200.760, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;

(j) Prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punishable as a misdemeanor, within the immediately preceding 7 years;

(k) A crime involving domestic violence that is punishable as a felony;

(l) A crime involving domestic violence that is punishable as a misdemeanor, within the immediately preceding 7 years;

(m) A criminal offense under the laws governing Medicaid or Medicare, within the immediately preceding 7 years;

(n) Any offense involving the sale, furnishing, purchase, consumption or possession of alcoholic beverages by a minor including, without limitation, a violation of any provision of NRS 202.015 to 202.067, inclusive, or driving a vehicle under the influence of alcohol or a controlled substance in violation of chapter 484C of NRS or a law of any other jurisdiction that prohibits the same or similar conduct, within the immediately preceding 7 years; or

(o) An attempt or conspiracy to commit any of the offenses listed in this subsection within the immediately preceding 7 years.

2. A licensing authority or a person or entity designated by the licensing authority may conduct an investigation of the background and personal history of a person who is 18 years of age or older who routinely supervises a child in a foster home in the same manner as described in subsection 1.

3. The licensing authority or its approved designee may charge each person investigated pursuant to this section for the reasonable cost of that investigation.

4. Unless a preliminary Federal Bureau of Investigation Interstate Identification Index name-based check of the records of criminal history has been conducted pursuant to NRS 424.039, a person who is required to submit to an investigation pursuant to subsection 1 shall not have contact with a child in a foster home without supervision before the investigation of the background and personal history of the person has been conducted.

5. The licensing authority or its designee:

(a) Shall conduct an investigation of each licensee, employee and resident pursuant to this section at least once every 5 years after the initial investigation; and

(b) May conduct an investigation of any person who is 18 years of age or older who routinely supervises a child in a foster home at such times as it deems appropriate.

Sec. 8. NRS 424.033 is hereby amended to read as follows:
424.033 1. Each applicant for a license to conduct a foster home, person who is licensed to conduct a foster home, employee of that applicant or licensee, resident of a foster home who is 18 years of age or older, other than a participant in the Extended Young Adult Support Services Program established pursuant to section 25 of this act, or a person who is 18 years of age or older who routinely supervises a child in a foster home for whom an investigation is conducted pursuant to subsection 2 of NRS 424.031, must submit to the licensing authority or its approved designee:
(a) A complete set of fingerprints and written permission authorizing the licensing authority or its approved designee to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report to enable the licensing authority or its approved designee to conduct an investigation pursuant to NRS 424.031; and
(b) Written permission to conduct a child abuse and neglect screening.
2. For each person who submits the documentation required pursuant to subsection 1, the licensing authority or its approved designee shall conduct a child abuse and neglect screening of the person in every state in which the person has resided during the immediately preceding 5 years.
3. The licensing authority or its approved designee may exchange with the Central Repository or the Federal Bureau of Investigation any information respecting the fingerprints submitted.
4. The Division shall assist the licensing authority of another state that is conducting a child abuse and neglect screening of a person who has resided in this State by providing information which is necessary to conduct the screening if the person who is the subject of the screening has signed a written permission authorizing the licensing authority to conduct a child abuse and neglect screening. The Division may charge a fee for providing such information in an amount which does not exceed the actual cost to the Division to provide the information.
5. When a report from the Federal Bureau of Investigation is received by the Central Repository, it shall immediately forward a copy of the report to the licensing authority or its approved designee.
6. Upon receiving a report pursuant to this section, the licensing authority or its approved designee shall determine whether the person has been convicted of a crime listed in NRS 424.031.
7. The licensing authority shall immediately inform the applicant for a license to conduct a foster home or the person who is licensed to conduct a foster home whether an employee or resident of the foster home, or any other person who is 18 years of age or older who routinely supervises a child in the foster home for whom an investigation was conducted pursuant to subsection 2 of NRS 424.031, has been convicted of a crime listed in NRS 424.031. The information provided to the applicant for a license to conduct a foster home or
the person who is licensed to conduct a foster home must not include specific information relating to any such conviction, including, without limitation, the specific crime for which the person was convicted.

8. The licensing authority may deny an application for a license to operate a foster home or may suspend or revoke such a license if the licensing authority determines that the applicant or licensee has been convicted of a crime listed in NRS 424.031 or has failed to terminate an employee, remove a resident of the foster home who is 18 years of age or older or prevent a person for whom an investigation was conducted pursuant to subsection 2 of NRS 424.031 from being present in the foster home, if such a person has been convicted of any crime listed in NRS 424.031.

Sec. 9. NRS 424.039 is hereby amended to read as follows:

424.039 1. A licensing authority or its approved designee may, in accordance with the procedures set forth in 28 C.F.R. §§ 901 et seq., conduct a preliminary Federal Bureau of Investigation Interstate Identification Index name-based check of the records of criminal history of a resident who is 18 years of age or older of a foster home in which the licensing authority wishes to place a child in an emergency situation, other than a [resident who remains under the jurisdiction of a court] participant in the Extended Young Adult Support Services Program established pursuant to [NRS 432B.594,] section 25 of this act, to determine whether the person investigated has been arrested for or convicted of any crime.

2. Upon request of a licensing authority that wishes to place a child in a foster home in an emergency situation, or upon request of the approved designee of the licensing authority, a resident who is 18 years of age or older of the foster home in which the licensing authority wishes to place the child, other than a [resident who remains under the jurisdiction of a court] participant in the Extended Young Adult Support Services Program established pursuant to [NRS 432B.594,] section 25 of this act, must submit to the licensing authority or its approved designee a complete set of fingerprints and written permission authorizing the licensing authority or its approved designee to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The licensing authority or its approved designee shall forward the fingerprints to the Central Repository for Nevada Records of Criminal History within the time set forth in federal law or regulation.

3. If a resident who is 18 years of age or older of a foster home in which a licensing authority places a child in an emergency situation, other than a [resident who remains under the jurisdiction of a court] participant in the Extended Young Adult Support Services Program established pursuant to [NRS 432B.594,] section 25 of this act, refuses to provide a complete set of fingerprints to the licensing authority or its approved designee upon request pursuant to subsection 2, the licensing authority must immediately remove the child from the foster home.
Sec. 10. NRS 424.220 is hereby amended to read as follows:
424.220 1. A foster care agency which places children in an independent living foster home shall develop and implement written policies and procedures relating to children placed in independent living foster homes which must include, without limitation:
   (a) A process for ensuring that a potential location for an independent living arrangement meets any standards required by the licensing authority and is evaluated on a regular basis to ensure that it continues to meet such standards;
   (b) A procedure for approving a location for an independent living arrangement;
   (c) Criteria and procedures for intake and admission into the independent living foster home and discharge from the independent living foster home, including, without limitation, procedures to ensure that the child will be discharged into the care of his or her legal guardian if he or she is less than 18 years of age at the time of his or her discharge;
   (d) The conditions under which a child may be discharged from the independent living foster home, including, without limitation, criteria and procedures for implementing an emergency discharge of the child;
   (e) Criteria and procedures for terminating the approval of a location for an independent living arrangement;
   (f) A detailed plan for determining and maintaining the supervision and visitation of each child after he or she has been placed in a location for an independent living arrangement; and
   (g) The types of services that the provider of foster care will obtain or provide to meet the needs of the child during the placement.
2. A foster care agency which places children in an independent living foster home shall coordinate with the provider of foster care to:
   (a) Ensure that each child is enrolled in academic, vocational education or career and technical education services appropriate to meet the needs of the child;
   (b) Monitor the educational progress of each child as often as necessary;
   (c) Assist each child in obtaining routine and emergency medical care and dental care;
   (d) Evaluate the needs of each child for financial assistance upon intake and monthly thereafter or more often if necessary;
   (e) Provide the resources to meet the basic needs of each child, including, without limitation, clothing, food and shelter;
   (f) Provide assistance to each child in locating, securing and maintaining employment;
   (g) Provide training in life skills to meet the needs of each child;
   (h) Support each [child who remains under the jurisdiction of a court] participant in the Extended Young Adult Support Services Program established pursuant to [NRS 432B.594;] section 25 of this act; and
(i) Obtain and provide a system for responding to a crisis that is accessible to the child 24 hours a day, 7 days a week, including holidays, and provide training to each child on how to access and use the system.

3. A foster care agency which places children in an independent living foster home shall provide an orientation and training to each child admitted to its program for independent living.

Sec. 11. NRS 432.010 is hereby amended to read as follows:

432.010 As used in this chapter, except as otherwise defined by specific statute or unless the context otherwise requires:
1. “Administrator” means the Administrator of the Division.
2. “Agency which provides child welfare services” has the meaning ascribed to it in NRS 432B.030.
3. “Child” means a person who is less than 18 years of age or who [remains under the jurisdiction of a court] participates in the Extended Young Adult Support Services Program pursuant to [NRS 432B.304.] section 25 of this act.
5. “Director” means the Director of the Department.
6. “Division” means the Division of Child and Family Services of the Department.
7. “Maintenance” means general expenses for care such as board, shelter, clothing, transportation and other necessary or incidental expenses, or any of them, or monetary payments therefor.
8. “Special services” means medical, hospital, psychiatric, surgical or dental services, or any combination thereof.

Sec. 12. NRS 432.0395 is hereby amended to read as follows:

432.0395 1. Before an agency which provides child welfare services requests and examines a copy of any credit report pursuant to subsection 2, the agency which provides child welfare services shall, to the greatest extent practicable:
(a) Inform the child of the requirement to request and examine a copy of any credit report that may exist for the child;
(b) Explain to the child the process for resolving any inaccuracy discovered on any such credit report; and
(c) Explain to the child the possible consequences of an inaccuracy on a credit report of the child.

2. An agency which provides child welfare services shall request and examine a copy of any credit report that may exist for each child who remains in the custody of the agency which provides child welfare services for 60 or more consecutive days:
(a) When the child reaches the age of 14 years, and then at least once annually thereafter as required pursuant to 42 U.S.C. § 675(5)(I); or
(b) If the child has reached the age of 14 years before the child is placed in the custody of the agency which provides child welfare services, within 90 days after the placement of the child in the custody of the agency which
provides child welfare services, and then at least once annually thereafter as required pursuant to 42 U.S.C. § 675(5)(I).

3. An agency which provides child welfare services shall determine from the examination of a credit report pursuant to this section whether the credit report contains inaccurate information and whether the credit report indicates that identity theft or any other crime has been committed against the child.

4. If the agency which provides child welfare services determines that an inaccuracy exists in the credit report of a child, the agency which provides child welfare services must:
   (a) Report any information which may indicate identity theft or other crime to the Attorney General;
   (b) Make a diligent effort to resolve the inaccuracy as soon as practicable; and
   (c) If an inaccuracy remains unresolved after the child has left the custody of the agency which provides child welfare services, notify the child or, if the child has not attained the age of majority, the person responsible for the child’s welfare:
      (1) That an inaccuracy exists in the credit report of the child;
      (2) Of the manner in which to correct the inaccuracy; and
      (3) Of any services that may be available in the community to provide assistance in correcting the inaccuracy.

5. An agency which provides child welfare services may, upon consent of a child who [remains under the jurisdiction of a court] participates in the Extended Young Adult Support Services Program pursuant to [NRS 432B.504.] section 25 of this act, continue to request and examine a credit report of the child and provide assistance to the child if an inaccuracy is discovered.

6. The Attorney General may investigate each potential instance of identity theft or crime reported pursuant to subsection 4 and prosecute in accordance with law each person responsible for any identity theft identified in the investigation.

Sec. 13. NRS 432A.0245 is hereby amended to read as follows:

432A.0245  1. “Child care institution” means a facility which provides care and shelter during the day and night and provides developmental guidance to 16 or more children who do not routinely return to the homes of their parents or guardians. Such an institution may also provide, without limitation:
   (a) Education to the children according to a curriculum approved by the Department of Education;
   (b) Services to children who have been diagnosed as severely emotionally disturbed as defined in NRS 433B.045, including, without limitation, services relating to mental health and education; or
   (c) Emergency shelter to children who have been placed in protective custody pursuant to chapter 432B of NRS.
2. As used in this section, “child” includes a person who is less than 18 years of age or who participates in the Extended Young Adult Support Services Program established pursuant to section 25 of this act.

Sec. 14. NRS 432A.160 is hereby amended to read as follows:

432A.160 1. Except as otherwise provided in this section, the Division may issue a provisional license, effective for a period not exceeding 1 year, to a child care facility which:

   (a) Is in operation at the time of adoption of standards and other regulations pursuant to the provisions of this chapter, if the Division determines that the facility requires a reasonable time under the particular circumstances, not to exceed 1 year from the date of the adoption, within which to comply with the standards and other regulations;

   (b) Has failed to comply with the standards and other regulations, if the Division determines that the facility is in the process of making the necessary changes or has agreed to effect the changes within a reasonable time; or

   (c) Is in the process of applying for a license, if the Division determines that the facility requires a reasonable time within which to comply with the standards and other regulations.

2. The provisions of subsection 1 do not require the issuance of a license or prevent the Division from refusing to renew or from revoking or suspending any license in any instance where the Division considers that action necessary for the health and safety of the occupants of any facility or the clients of any outdoor youth program.

3. A provisional license must not be issued pursuant to this section unless the Division has completed an investigation into the qualifications and background of the applicant and the employees of the applicant pursuant to NRS 432A.170 to ensure that the applicant and each employee of the applicant, or every resident of the child care facility who is 18 years of age or older, other than a participant in the Extended Young Adult Support Services Program established pursuant to section 25 of this act, or participant in any outdoor youth program who is 18 years of age or older, has not been convicted of a crime listed in subsection 2 of NRS 432A.170 and has not had a substantiated report of child abuse or neglect made against him or her.

Sec. 15. NRS 432A.170 is hereby amended to read as follows:

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

   (a) Buildings or premises of the facility and, if the application is for an outdoor youth program, the area of operation of the program;

   (b) Qualifications and background of the applicant or the employees of the applicant;

   (c) Method of operation for the facility; and

   (d) Policies and purposes of the applicant.
2. Subject to the provisions of subsection 7, the Division shall secure from appropriate law enforcement agencies information on the background and personal history of every applicant, licensee, operator of a small child care establishment, employee of an applicant, licensee or small child care establishment, resident of a child care facility or small child care establishment who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court, participant in the Extended Young Adult Support Services Program established pursuant to section 25 of this act, or participant in an outdoor youth program who is 18 years of age or older, to determine whether the person has been convicted of:

(a) Murder, voluntary manslaughter or mayhem;
(b) Any other felony involving the use of a firearm or other deadly weapon;
(c) Assault with intent to kill or to commit sexual assault or mayhem;
(d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;
(e) Any crime against a child, including, without limitation, abuse, neglect or endangerment of a child, contributory delinquency or pornography involving a minor;
(f) Arson;
(g) Assault;
(h) Battery, including, without limitation, battery which constitutes domestic violence;
(i) Kidnapping;
(j) Any offense relating to the possession or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS within the immediately preceding 5 years;
(k) Any offense relating to the distribution or manufacture of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, including, without limitation, possession of a controlled substance for the purpose of sale;
(l) Abuse, neglect, exploitation, isolation or abandonment of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;
(m) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years;
(n) A crime that constitutes domestic violence pursuant to NRS 33.018;
(o) A violation of NRS 484C.430; or
(p) A violation of NRS 484C.110 or 484C.120 within the immediately preceding 5 years.

3. Subject to the provisions of subsection 7, the Division shall request information concerning every applicant, licensee, operator of a small child care establishment, employee of an applicant, licensee or small child care establishment, resident of a child care facility or small child care establishment.
who is 18 years of age or older, other than a participant in the Extended Young Adult Support Services Program established pursuant to section 25 of this act, or participant in an outdoor youth program who is 18 years of age or older, from:

(a) The Central Repository for Nevada Records of Criminal History for its report concerning a conviction in this State of any of the crimes set forth in subsection 2 and for submission to the Federal Bureau of Investigation for its report pursuant to NRS 432A.175; and

(b) The Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 to determine whether there has been a substantiated report of child abuse or neglect made against any of them.

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

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

(a) Employee of an applicant, licensee or small child care establishment, resident of a child care facility or small child care establishment who is 18 years of age or older, other than a participant in the Extended Young Adult Support Services Program established pursuant to section 25 of this act, or participant in an outdoor youth program who is 18 years of age or older for an initial background check not later than 3 days after the employee is hired, the residency begins or the participant begins participating in the program and before the employee, resident or participant has direct contact with any child at the child care facility, and then at least once every 5 years thereafter.

(b) Applicant at the time that an application is submitted for licensure, and then at least once every 5 years after the license is issued.

(c) Operator of a small child care establishment before the operator begins operating the establishment, and then at least once every 5 years after the establishment begins operating.

6. A person who is required to submit to an investigation required pursuant to this section shall not have contact with a child in a child care facility without supervision before the investigation of the background and personal history of the person has been conducted.

7. The provisions of subsections 2, 3 and 5 apply to a small child care establishment and an operator of a small child care establishment if the operator of such an establishment has applied or registered with the Division of Welfare and Supportive Services of the Department pursuant to NRS 432A.1756.

Sec. 16. NRS 432A.175 is hereby amended to read as follows:

432A.175 1. Subject to the provisions of subsection 2:
(a) Every applicant for a license to operate a child care facility, licensee, operator of a small child care establishment, employee of an applicant, licensee or small child care establishment, resident of a child care facility or small child care establishment who is 18 years of age or older, other than a participant in the Extended Young Adult Support Services Program established pursuant to section 25 of this act, or participant in an outdoor youth program who is 18 years of age or older, shall submit to the Division, or to the person or agency designated by the Division, to enable the Division to conduct an investigation pursuant to NRS 432A.170, a:

1. Complete set of fingerprints and a written authorization for the Division or its designee to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report and for submission to the Federal Bureau of Investigation for its report;

2. Written statement detailing any prior criminal convictions; and

3. Written authorization for the Division to obtain any information that may be available from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100.

(b) If an employee of an applicant for a license to operate a child care facility, licensee or small child care establishment, a resident of a child care facility or small child care establishment who is 18 years of age or older, other than a participant in the Extended Young Adult Support Services Program established pursuant to section 25 of this act, or participant in an outdoor youth program who is 18 years of age or older, has been convicted of any crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect filed against him or her, the Division shall immediately notify the applicant, licensee or small child care establishment who shall then comply with the provisions of NRS 432A.1755.

(c) An applicant for a license to operate a child care facility, licensee or operator of a small child care establishment shall notify the Division as soon as practicable but not later than 24 hours after hiring an employee, beginning the residency of a resident who is 18 years of age or older, other than a participant in the Extended Young Adult Support Services Program established pursuant to section 25 of this act, or beginning the participation of a participant in an outdoor youth program who is 18 years of age or older.

(d) An employee of an applicant for a license to operate a child care facility, licensee or operator of a small child care establishment shall notify the applicant, licensee or operator not later than 24 hours after:

1. Being charged with or convicted of a crime listed in subsection 2 of NRS 432A.170;
(2) Receiving notice that he or she is the subject of an investigation for child abuse or neglect; or

(3) Receiving notice that a report of abuse or neglect has been substantiated against him or her.

(e) A resident of a child care facility or small child care establishment who is 18 years of age or older, other than a [resident who remains under the jurisdiction of a court] participant in the Extended Young Adult Support Services Program established pursuant to [NRS 432B.594,] section 25 of this act, or participant in an outdoor youth program who is 18 years of age or older shall notify the licensee of the child care facility, operator of the small child care establishment or outdoor youth program, as applicable, not later than 24 hours after:

(1) Being charged with or convicted of a crime listed in paragraph (b);

(2) Receiving notice that he or she is the subject of an investigation for child abuse or neglect; or

(3) Receiving notice that a report of abuse or neglect has been substantiated against him or her.

(f) An applicant for a license to operate a child care facility, licensee or operator of a small child care establishment shall notify the Division within 2 days after receiving notice that:

(1) The applicant, licensee or operator, an employee of the applicant, licensee or small child care establishment, a resident of the child care facility or small child care establishment who is 18 years of age or older, other than a [resident who remains under the jurisdiction of a court] participant in the Extended Young Adult Support Services Program established pursuant to [NRS 432B.594,] section 25 of this act, or participant in an outdoor youth program who is 18 years of age or older, or a facility, establishment or program operated by the applicant, licensee or operator is the subject of a lawsuit or any disciplinary proceeding; or

(2) The applicant, licensee or operator or an employee, a resident or a participant has been charged with a crime listed in subsection 2 of NRS 432A.170 or is being investigated for child abuse or neglect.

2. The provisions of this section apply to a small child care establishment and an operator of a small child care establishment if the operator of such an establishment has applied or registered with the Division of Welfare and Supportive Services of the Department pursuant to NRS 432A.1756.

3. The Division shall adopt regulations to establish civil penalties to be imposed against any person, state or local government unit or agency thereof that fails to comply with the requirements of this section.

Sec. 17. NRS 432A.1755 is hereby amended to read as follows:

432A.1755 1. Subject to the provisions of subsection 2:

(a) Except as otherwise provided in paragraph (c), upon receiving information pursuant to NRS 432A.175 from the Central Repository for Nevada Records of Criminal History or the Statewide Central Registry for the
Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 or from an employee of an applicant for a license to operate a child care facility, a licensee or a small child care establishment, a resident of a child care facility or small child care establishment who is 18 years of age or older, other than a [resident who remains under the jurisdiction of a court] participant in the Extended Young Adult Support Services Program established pursuant to [NRS 432B.594], section 25 of this act, or participant in an outdoor youth program who is 18 years of age or older or from any other source that such an employee, resident or participant has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him or her, the applicant, licensee or operator of the small child care establishment shall terminate the employment of the employee or remove the resident from the facility or establishment or participant from the outdoor youth program after allowing the employee, resident or participant time to correct the information as required pursuant to paragraph (b).

(b) If an employee, resident or participant believes that the information provided to the applicant, licensee or operator pursuant to paragraph (a) is incorrect, the employee, resident or participant must inform the applicant, licensee or operator immediately. The applicant, licensee or operator shall give any such employee, resident or participant 30 days to correct the information.

(c) The Division may establish by regulation a process by which it may review evidence upon request to determine whether an employee of an applicant for a license to operate a child care facility, a licensee or operator of a small child care establishment, a resident of a child care facility who is 18 years of age or older, other than a [resident who remains under the jurisdiction of a court] participant in the Extended Young Adult Support Services Program established pursuant to [NRS 432B.594], section 25 of this act, or a participant in an outdoor youth program who is 18 years of age or older has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him or her may remain employed or continue to reside in the facility or establishment, as applicable, despite the conviction. Any such review must be conducted in a manner which does not discriminate against a person in violation of 42 U.S.C. § 2000e et seq.

(d) If a process for review is established pursuant to paragraph (c), an employee, resident or participant, as applicable, may request such a review in the manner established by the Division. Any determination made by the Division is final for purposes of judicial review.

(e) During any period in which an employee, resident or participant seeks to correct information pursuant to paragraph (b) or requests a review of information pursuant to paragraph (d), it is within the discretion of the applicant, licensee or operator whether to allow the employee, resident or participant to continue to work for or reside at the child care facility or small
child care establishment or participate in the outdoor youth program, as applicable, except that the employee, resident or participant shall not have contact with a child without supervision during such a period.

2. The provisions of this section apply to a small child care establishment and an operator of a small child care establishment if the operator of such an establishment has applied or registered with the Division of Welfare and Supportive Services of the Department pursuant to NRS 432A.1756.

3. The Division shall adopt regulations to establish civil penalties to be imposed against any person, state or local government unit or agency thereof that fails to comply with the requirements of this section.

Sec. 18. NRS 432A.1785 is hereby amended to read as follows:

432A.1785 1. Subject to the provisions of subsection 3, each applicant for a license to operate a child care facility, licensee and operator of a small child care establishment shall maintain records of the information concerning employees of the child care facility or small child care establishment and any residents of the child care facility or small child care establishment who are 18 years of age or older, other than participants in the Extended Young Adult Support Services Program established pursuant to section 25 of this act, or participants in any outdoor youth program who are 18 years of age or older that is collected pursuant to NRS 432A.170 and 432A.175, including, without limitation:

(a) A copy of the fingerprints that were submitted to the Central Repository for Nevada Records of Criminal History;

(b) Proof that the applicant, licensee or operator submitted fingerprints to the Central Repository for Nevada Records of Criminal History; and

(c) The written authorization to obtain information from the Central Repository and the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100.

2. The records maintained pursuant to subsection 1 must be:

(a) Maintained for the period of the employee’s employment with or the resident’s presence at the child care facility or small child care establishment or the participant’s presence in the outdoor youth program; and

(b) Made available for inspection by the Division at any reasonable time and copies thereof must be furnished to the Division upon request.

3. The provisions of this section apply to a small child care establishment and an operator of a small child care establishment if the operator of such an establishment has registered with the Division of Welfare and Supportive Services of the Department pursuant to NRS 432A.1756.

Sec. 19. NRS 432A.190 is hereby amended to read as follows:

432A.190 1. The Division may deny an application for a license to operate a child care facility or may suspend or revoke such a license upon any of the following grounds:
(a) Violation by the applicant or licensee or an employee of the applicant or licensee of any of the provisions of this chapter or of any other law of this State or of the standards and other regulations adopted thereunder.
(b) Aiding, abetting or permitting the commission of any illegal act.
(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the child care facility for which a license is issued.
(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the child care facility, or the clients of the outdoor youth program.
(e) Conviction of any crime listed in subsection 2 of NRS 432A.170 committed by the applicant or licensee or an employee of the applicant or licensee, or by a resident of the child care facility or participant in the outdoor youth program who is 18 years of age or older.
(f) Failure to comply with the provisions of NRS 432A.178.
(g) Substantiation of a report of child abuse or neglect made against the applicant or licensee.
(h) Conduct which is found to pose a threat to the health or welfare of a child or which demonstrates that the applicant or licensee is otherwise unfit to work with children.
(i) Violation by the applicant or licensee of the provisions of NRS 432A.1755 by continuing to employ a person, allowing a resident who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court, to continue to reside in the child care facility or allowing a participant in the Extended Young Adult Support Services Program established pursuant to NRS 432B.594 to continue to participate in the program if the employee, or the resident or participant who is 18 years of age or older, has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him or her.

2. In addition to the provisions of subsection 1, the Division may revoke a license to operate a child care facility if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:
(a) Is convicted of violating any of the provisions of NRS 202.470;
(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or
(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Division shall maintain a log of any complaints that it receives relating to activities for which the Division may revoke the license to operate a child care facility pursuant to subsection 2. The Division shall provide to a child care facility:
(a) A summary of a complaint against the facility if the investigation of the complaint by the Division either substantiates the complaint or is inconclusive;
(b) A report of any investigation conducted with respect to the complaint; and
(c) A report of any disciplinary action taken against the facility.

The facility shall make the information available to the public pursuant to NRS 432A.178.

4. In addition to any other disciplinary action, the Division may impose an administrative fine for a violation of any provision of this chapter or any regulation adopted pursuant thereto. The Division shall afford to any person so fined an opportunity for a hearing. Any money collected for the imposition of such a fine must be credited to the State General Fund.

Sec. 20. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 21 to 26, inclusive, of this act.

Sec. 21. As used in NRS 432B.591 to 432B.595, inclusive, and sections 21 to 26, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 432B.591 and sections 22 and 23 of this act have the meanings ascribed to them in those sections.

Sec. 22. “Program” means the Extended Young Adult Support Services Program established pursuant to section 25 of this act.

Sec. 23. “Young adult” means a person who is at least 18 years of age but less than 21 years of age and whose plan for permanent placement adopted pursuant to NRS 432B.553 was, on his or her 18th birthday, a permanent living arrangement other than reunification with his or her parents.

Sec. 24. 1. A court shall retain jurisdiction over a young adult until the young adult reaches 21 years of age.

2. While under the jurisdiction of the court, a young adult has the same authority to make decisions as a person who is over 18 years of age and who is not subject to the jurisdiction of the court.

[Section 1.] Sec. 25. [Chapter 432B of NRS is hereby amended by adding thereto a new section to read as follows:]

1. [An agency which provides child welfare services may] The Division of Child and Family Services shall establish and administer the Extended Young Adult Support Services Program to provide extended support services to young adults pursuant to the provisions of NRS 432B.591 to 432B.595, inclusive, and sections 21 to 26, inclusive, of this act and the Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. No. 110-351, 42 U.S.C. § 675.

2. On or before September 1 of each year, [an agency which provides child welfare services] the Division of Child and Family Services shall submit a report regarding the [program established pursuant to subsection 1] Program, including, without limitation, the number of participants and the costs for providing the extended support services, for submittal to:
The Interim Finance Committee if the report is received during an odd-numbered year; or
(b) The next regular session of the Legislature if the report is received during an even-numbered year.

3. The Division of Child and Family Services shall adopt regulations governing the Program. Such regulations must, without limitation, ensure that the Program complies with the Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. No. 110-351, 42 U.S.C. § 675.

Sec. 26.
1. Except as otherwise provided in subsection 4, the court shall, within 12 months after the date on which a participant entered into a written agreement pursuant to NRS 432B.594 and each year thereafter, hold a hearing to:
   (a) Review the plan developed pursuant to NRS 432B.595; and
   (b) Determine whether the agency which provides child welfare services has made reasonable efforts to assist the participant in meeting the goals prescribed in the plan.

2. Except as otherwise provided in this subsection, notice of the hearing must be given by regular or certified mail. Notice may be given to the participant or his or her attorney by electronic mail if the participant or his or her attorney, as applicable, agrees to receive notice in this manner.

3. Unless required by the court or panel, the young adult is not required to be present at the hearing.

4. The court may enter an order directing the hearing required by this section be conducted by a panel of three or more persons appointed by mutual consent of the judge or judges of the court. The persons so appointed shall serve without compensation at the pleasure of the court.

Sec. 27. NRS 432B.040 is hereby amended to read as follows:

432B.040 "Child" means a person under the age of 18 years or, if in school, until graduation from high school. [The term does not include a child who remains under the jurisdiction of the court pursuant to NRS 432B.594.]

Sec. 28. NRS 432B.060 is hereby amended to read as follows:

432B.060 "Custodian" means a person or a governmental organization, other than a parent or legal guardian, who has been awarded legal custody of a child. The term does not include a person or governmental organization who continues to provide services to a [child that remains under the jurisdiction of a court pursuant to NRS 432B.594] participant in the Extended Young Adult Support Services Program established pursuant to section 25 of this act.

Sec. 29. NRS 432B.391 is hereby amended to read as follows:

432B.391 1. An agency which provides child welfare services or its approved designee may, in accordance with the procedures set forth in 28 C.F.R. §§ 901 et. seq., conduct a preliminary Federal Bureau of Investigation Interstate Identification Index name-based check of the records of criminal history of a resident who is 18 years of age or older of a home in
which the agency which provides child welfare services wishes to place a child in an emergency situation, other than a [resident who remains under the jurisdiction of a court] participant in the Extended Young Adult Support Services Program established pursuant to [NRS 432B.594] section 25 of this act, to determine whether the person investigated has been arrested for or convicted of any crime.

2. Upon request of an agency which provides child welfare services that wishes to place a child in a home in an emergency situation, or upon request of the approved designee of the agency which provides child welfare services, a resident who is 18 years of age or older of the home in which the agency which provides child welfare services wishes to place the child, other than a [resident who remains under the jurisdiction of a court] participant in the Extended Young Adult Support Services Program established pursuant to [NRS 432B.594] section 25 of this act, must submit to the agency which provides child welfare services or its approved designee a complete set of fingerprints and written permission authorizing the agency which provides child welfare services or its approved designee to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The agency which provides child welfare services or its approved designee shall forward the fingerprints to the Central Repository for Nevada Records of Criminal History within the time set forth in federal law or regulation.

3. If a resident who is 18 years of age or older of a home in which an agency which provides child welfare services places a child in an emergency situation, other than a [resident who remains under the jurisdiction of a court] participant in the Extended Young Adult Support Services Program established pursuant to [NRS 432B.594] section 25 of this act, refuses to provide a complete set of fingerprints to the agency which provides child welfare services or its approved designee upon request pursuant to subsection 2, the agency which provides child welfare services must immediately remove the child from the home.

[Sec. 30. NRS 432B.591 is hereby amended to read as follows:

432B.591  [As used in NRS 432B.591 to 432B.595, inclusive, and section 1 of this act, “child” means a person who is:

1. Under the age of 18 years; and

2. Over the age of 18 years and who remains under the jurisdiction of the court pursuant to NRS 432B.594, or who receive extended foster care services provided by a program established by an agency which provides child welfare services pursuant to section 1 of this act.

[Sec. 31. NRS 432B.592 is hereby amended to read as follows:

432B.592  1. A court shall refer a child who is in the custody of an agency which provides child welfare services to an attorney in the county who provides legal services without a charge to abused or neglected children if the court determines that the child:
(a) Has reached the age of 17 years; and
(b) Is not likely to be returned to the custody of his or her parent before reaching the age of 18 years.

2. The court shall request the attorney to whom such a child is referred to counsel:
   (a) Counsel the child regarding the legal consequences of remaining under the jurisdiction of the court pursuant to section 24 of this act, regardless of whether the child elects to participate in the Program; and
   (2) Participating in the Program; and assist
   (b) Assist the child in deciding whether to remain under the jurisdiction of the court pursuant to NRS 432B.594 or whether to receive extended foster care services provided by a program established by an agency which provides child welfare services pursuant to section 1 of this act.

Sec. 32. NRS 432B.593 is hereby amended to read as follows:

432B.593  1. At least 120 days before the date on which a child who is in the custody of an agency which provides child welfare services reaches the age of 18 years, the agency which provides child welfare services shall meet with the child to determine:
   (a) Provide information to the child regarding the Program, including, without limitation, eligibility requirements for participation in the Program and extended young adult support services available to participants in the Program; and
   (b) Determine whether the child intends to request that the court retain jurisdiction over the child pursuant to NRS 432B.594 after the child reaches the age of 18 years, or to receive extended foster care services provided by a program established by an agency which provides child welfare services pursuant to section 1 of this act, to participate in the Program.

2. If the child indicates during the meeting held pursuant to subsection 1 that the child does not intend to request that the court retain jurisdiction over the child, or to receive extended foster care services provided by a program established by an agency which provides child welfare services pursuant to section 1 of this act, the agency which provides child welfare services shall recommend that the court terminate jurisdiction over the child when the child reaches the age of 18 years.

3. Notwithstanding a determination made by a child during a meeting held pursuant to subsection 1, and notwithstanding any previous decision to terminate participation in the Program, any time before reaching the age of 21 years, the child may:
   (a) Inform the agency which provides child welfare services that the child intends to receive extended foster care services provided by a program established by an agency which provides child welfare services pursuant to section 1 of this act or request that the court continue jurisdiction over the child.
pursuant to NRS 432B.594, and the agency shall revise its recommendation to the court accordingly; or

(b) Request that the court retain jurisdiction over the child pursuant to NRS 432B.594, and the court shall accept jurisdiction.

3. The agency which provided child welfare services to a young adult before his or her 18th birthday:

(a) Shall, upon the request of the young adult to participate in the Program made on or after his or her 18th birthday, assist the young adult to enroll in the Program.

(b) May refer the young adult to an attorney who provides legal services without a charge to assist the young adult to enroll in the Program.

4. A child who enters into an agreement with an agency which provides child welfare services before the child reaches the age of 18 years to allow the child to live independently is not prohibited from electing to participate in the Program, and such a child is entitled to the same rights and protections set forth in NRS 432B.591 to 432B.595, inclusive, and sections 21 to 26, inclusive, of this act, as provided to any other young adult under the Program.

Sec. 33. NRS 432B.594 is hereby amended to read as follows:

432B.594 1. A court which orders a child to be placed other than with a parent and which has jurisdiction over the child when the child reaches the age of 18 years shall retain jurisdiction over the child if the child so requests.

2. Except as otherwise provided in this section, jurisdiction over a child that is retained pursuant to subsection 1 continues a young adult may continue to participate in the Program until:

(a) Enter into a written agreement with the agency that provides child welfare services that satisfies the requirements prescribed in subsection 3;

(b) Be:

(1) Enrolled in a program of secondary education or an educational program leading to a general educational development certificate or an equivalent document;

(2) Enrolled in a program of postsecondary or vocational education;

(3) Enrolled or participating in a program or activity designed to promote employment or remove obstacles to employment;

(4) Employed at least 80 hours per month; or

(5) Incapable of satisfying any of the requirements prescribed in paragraphs (1) through (4), inclusive, due to a documented medical or cognitive condition; and

(c) Make a good faith effort to achieve the goals set forth in the plan developed pursuant to NRS 432B.595.
(a) The agency which provides child welfare services, the young adult and the attorney of the young adult agree to terminate participation in the Program:

(b) The court determines that:

(1) The young adult has achieved the goals set forth in the plan developed pursuant to NRS 432B.595;

(2) The young adult is not making a good faith effort to achieve the goals set forth in the plan developed pursuant to NRS 432B.595; or

(3) The circumstances of the young adult have changed in such a manner that it is infeasible for the young adult to achieve the goals set forth in the plan developed pursuant to NRS 432B.595;

(c) The young adult requests that participation in the Program be terminated; or

(d) The young adult reaches the age of 21 years, whichever occurs first.

3. If the court that retains jurisdiction over a child pursuant to this section transfers jurisdiction to another court in this State, the court which accepts jurisdiction must retain jurisdiction over the case for the period provided pursuant to this section.

4. A child who requests that the court retain jurisdiction over the child pursuant to this section must, upon reaching the age of 18 years, enter into a written agreement with the agency which provides child welfare services. The agreement, which to participate in the Program required by subsection 1 must be filed with the court and must include, without limitation, the following provisions, which specify that:

(a) The young adult voluntarily requested that the court retain jurisdiction over the child, to participate in the Program;

(b) While the young adult is entitled to continue to receive services from the agency which provides child welfare services and to receive monetary payments directly or to have such payments provided to another entity as designated in the manner prescribed in the plan developed pursuant to NRS 432B.595 in an amount sufficient to assist the young adult to achieve self-sufficiency which does not exceed the rate of payment for foster care;

(c) While the young adult will no longer be under the legal custody of the agency which provides child welfare services, and any proceedings conducted pursuant to NRS 432B.410 to 432B.590, inclusive, will terminate;

(d) The young adult may, at any time, request that participation in the Program be terminated; and

(e) If there is an issue concerning the young adult while under the jurisdiction of the court, the participant, the participant and the agency which
provides child welfare services agree to attempt to resolve the issue before requesting a hearing before the court to address the issue.

4. If an issue arises concerning a child who remains under the jurisdiction of the court, the child participant, the agency which provides child welfare services or the attorney assigned to the case may request a hearing before the court to address the issue. Before requesting such a hearing, the child participant and the agency which provides child welfare services must attempt to resolve the issue.

5. If the agency which provides child welfare services wishes to terminate jurisdiction over the child in the Program, the agency which provides child welfare services must send a notice to the child participant and the child’s attorney that the agency has 15 days after receipt of the notice in which to request an informal administrative review. If, during the administrative review, a resolution is not reached, the child participant or the attorney of the child may request a hearing before the court pursuant to subsection 4. If the child and the attorney of the child agree to terminate participation or do not request an informal administrative review, the child must terminate upon notice to the court by the agency which provides child welfare services.

6. A child, while under the jurisdiction of the court pursuant to this section, is entitled to continue to receive services and monetary payments from the agency which provides child welfare services directly or to have such payments provided to another person or entity as designated in the manner prescribed in the plan developed pursuant to NRS 432B.595 in an amount sufficient to assist the young adult to achieve self-sufficiency which does not exceed the rate of payment for foster care.

7. The court may issue any order which it deems appropriate or necessary to ensure:

(a) That the agency which provides child welfare services provides the services and monetary payments which the child participant is entitled to receive as prescribed by the plan developed pursuant to NRS 432B.595; and

(b) That the child participant is working towards achieving the goals of the plan developed pursuant to NRS 432B.595.

Sec. 34. NRS 432B.595 is hereby amended to read as follows:

432B.595 1. [If the court retains jurisdiction over a child pursuant to NRS 432B.594] Upon the request of a young adult who satisfies the requirements of subsection 1 of NRS 432B.594 to participate in the Program, the agency which provides child welfare services shall develop a written extended youth support services plan to assist the child young adult in
transitioning to independent living. Such a plan must include, without limitation, the following goals:

(a) The persons or entities that will receive payments from the agency which provides child welfare services and the manner in which such payments will be allocated. The agency which provides child welfare services may make payments to more than one person or entity authorized to receive payments pursuant to subsection 2.

(b) The goals set forth in subsection 3.

2. The plan developed pursuant to subsection 1 may provide for the agency which provides child welfare services to make direct payments to:

(a) A foster home.

(b) A qualified residential treatment program.

(c) A child care institution.

(d) A person or entity, including, without limitation, a relative or fictive kin, who provides a supervised arrangement for independent living where the participant resides.

(e) A landlord, property manager or other entity that collects rental payments for housing.

(f) A participant.

(g) Any combination of the persons or entities listed in paragraphs (a) to (g), inclusive.

3. The plan developed pursuant to subsection 1 must include, without limitation, the following goals:

(a) That the [child] young adult save enough money to pay for his or her monthly expenses for at least 3 months;

(b) If the child has not graduated from high school or obtained a general equivalency diploma or an equivalent document, that the [child remain enrolled in high school or a program to] young adult obtain a high school diploma or general equivalency diploma or an equivalent document until graduation or completion of the program;

(c) If the [child] young adult has graduated from high school or obtained a general equivalency diploma or an equivalent document, that the [child] young adult:

(1) Enroll in Complete a program of postsecondary or vocational education;

(2) Enroll or participate in Complete a program or activity designed to promote employment or remove obstacles to employment; or

(3) Obtain or actively seek employment which is Be employed at least 80 hours per month;

(d) That the [child] young adult secure housing;

(e) That the [child] young adult have adequate income to meet his or her monthly expenses;

(f) That the [child] young adult identify an adult who will be available to provide support to the [child] young adult; and
(g) If applicable, that the child young adult have established appropriate supportive services to address any mental health or developmental needs of the child and young adult.

(4) If a child young adult is not capable of achieving one or more of the goals set forth in paragraphs (a) to (g), inclusive, that the child young adult have goals which are appropriate for the child young adult based upon the needs of the child.

(5) During the period in which the court retains jurisdiction over the child, the child young adult.

(5) Based upon the needs of a participant, the agency which provides child welfare services may, at any time, after consulting with the participant, revise:

(a) The persons or entities to whom a payment is made pursuant to subsection 2,

(b) The manner in which payments are allocated between persons or entities to whom payments are made pursuant to subsection 2,

(6) The plan developed pursuant to subsection 1 must be annually reviewed and mutually agreed upon by the young adult and the agency which provides child welfare services at the hearing required by section 26 of this act.

(7) The agency which provides child welfare services shall:

(a) Monitor the plan developed pursuant to subsection 1 and adjust the plan as necessary;

(b) Contact the child young adult by telephone at least once each month and in person at least quarterly;

(c) Ensure that the child young adult meets with a person who will provide guidance to the child and make the child aware of the services which will be available to the child young adult; and

(d) Conduct a meeting with the child young adult at least 30 days, but not more than 45 days, before the jurisdiction of the court is terminated he or she reaches the age of 21 years to determine whether the child young adult requires any additional guidance.

(8) As used in this section:

(a) "Child care institution" has the meaning ascribed to it in NRS 432A.0245.

(b) "Foster home" has the meaning ascribed to it in NRS 424.014.

(c) "Qualified residential treatment program" has the meaning ascribed to it in 42 U.S.C. § 672.

Sec. 35. 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. 36. Notwithstanding the provisions of NRS 218D.430 and 218D.435, a committee, other than the Assembly Standing Committee on Ways and Means and the Senate Standing Committee on Finance, may vote on this act before the expiration of the period prescribed for the return of a
fiscal note in NRS 218D.475. This section applies retroactively from and after March 22, 2021.

Sec. 37. This act becomes effective upon passage and approval.

Senator Ratti moved the adoption of the amendment.
Remarks by Senator Ratti.
(To be entered at a later date.)

Amendment adopted.
Senator Brooks moved that the bill be re-referred to the Committee on Finance, upon return from reprint.
Motion carried.
Bill ordered reprinted, engrossed and to the Committee on Finance.

Senate Bill No. 408.
Bill read third time.
Remarks by Senator Spearman.
(To be entered at a later date.)

Roll call on Senate Bill No. 408:
YEAS—21.
NAYS—None.

Senate Bill No. 408 having received a two-thirds majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 57.
Bill read third time.
Remarks by Senators Dondero Loop, Ohrenschall and Hammond.

SENATOR DONDERO LOOP:
(To be entered at a later date.)

SENATOR OHERNSCHALL:
(To be entered at a later date.)

SENATOR HAMMOND:
(To be entered at a later date.)

Roll call on Senate Bill No. 57:
YEAS—12.

Senate Bill No. 57 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senator Cannizzaro moved that the Senate adjourn until Wednesday, April 21, 2021, at 11:00 a.m.
Motion carried.
Senate adjourned at 9:03 p.m.

Approved:  

KATE MARSHALL  
President of the Senate

Attest:  CLAIRE J. CLIFT  
Secretary of the Senate